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108TH CONGRESS
2D SESSION

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[Report No. 108–724, Parts I, II, III, IV, and V]

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2004

Mr. HASTERT (for himself, Mr. DELAY, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. HOEKSTRA, Mr. HUNTER, Mr. YOUNG of Florida, Mr. SENSENBRENNER, Mr. HYDE, Mr. TOM DAVIS of Virginia, Mr. OXLEY, Mr. DREIER, Mr. COX, Mr. THOMAS, Mr. NUSSLE, Mr. BOEHNER, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select), and in addition to the Committees on Armed Services, Education and the Workforce, Energy and Commerce, Financial Services, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and Select Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 4, 2004

Reported from the Permanent Select Committee on Intelligence with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface roman]

OCTOBER 4, 2004

Reported from the Committee on Armed Services with amendments

[Omit the part struck through in brackets and insert the part printed in italic]

OCTOBER 4, 2004

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface italic]

OCTOBER 4, 2004

Referral to the Committees on Education and the Workforce, Energy and Commerce, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security extended for a period ending not later than October 5, 2004

OCTOBER 5, 2004

Reported from the Committee on Government Reform with an amendment

[Strike out all after the enacting clause and insert the part printed in italic in bold parentheses]

OCTOBER 5, 2004

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in boldface roman in bold brackets]

OCTOBER 5, 2004

Additional sponsors: Mr. BURR, Mr. GREEN of Wisconsin, Mr. MCINNIS, Mr. GOODLATTE, Mr. ISSA, Mr. PICKERING, Mr. SESSIONS, Mr. GINGREY, Mrs. MILLER of Michigan, and Mr. RAMSTAD

OCTOBER 5, 2004

Committees on Education and the Workforce, Energy and Commerce, International Relations, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

1 **SECTION 1. SHORT TITLE.**

2 ***This Act may be cited as the “9/11 Rec-***
 3 ***ommendations Implementation Act”.***

4 **SEC. 2. TABLE OF CONTENTS.**

5 ***The table of contents for this Act is as fol-***
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1 TITLE I—REFORM OF THE
2 INTELLIGENCE COMMUNITY

3 SEC. 1001. SHORT TITLE.

4 This title may be cited as the “National Se-
5 curity Intelligence Improvement Act of 2004”.

6 Subtitle A—Establishment of
7 National Intelligence Director

8 SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MAN-
9 AGEMENT OF INTELLIGENCE COMMUNITY.

10 (a) IN GENERAL.—Title I of the National Se-
11 curity Act of 1947 (50 U.S.C. 402 et seq.) is
12 amended by striking sections 102 through 104
13 and inserting the following new sections:

1 **“NATIONAL INTELLIGENCE DIRECTOR**

2 **“SEC. 102. (a) NATIONAL INTELLIGENCE DI-**
3 **RECTOR.—(1) There is a National Intelligence**
4 **Director who shall be appointed by the Presi-**
5 **dent, by and with the advice and consent of the**
6 **Senate.**

7 **“(2) The National Intelligence Director**
8 **shall not be located within the Executive Of-**
9 **fice of the President.**

10 **“(b) PRINCIPAL RESPONSIBILITY.—Subject to**
11 **the authority, direction, and control of the**
12 **President, the National Intelligence Director**
13 **shall—**

14 **“(1) serve as head of the intelligence**
15 **community;**

16 **“(2) act as the principal adviser to the**
17 **President, to the National Security Coun-**
18 **cil, and the Homeland Security Council**
19 **for intelligence matters related to the na-**
20 **tional security; and**

21 **“(3) through the heads of the depart-**
22 **ments containing elements of the intel-**
23 **ligence community, and the Central Intel-**
24 **ligence Agency, manage and oversee the**
25 **execution of the National Intelligence**

1 *Program and direct the National Intel-*
2 *ligence Program.*

3 “(c) *PROHIBITION ON DUAL SERVICE.—The*
4 *individual serving in the position of National*
5 *Intelligence Director shall not, while so serv-*
6 *ing, also serve as the Director of the Central*
7 *Intelligence Agency or as the head of any other*
8 *element of the intelligence community.*

9 “RESPONSIBILITIES AND AUTHORITIES OF THE
10 NATIONAL INTELLIGENCE DIRECTOR

11 “SEC. 102A. (a) *PROVISION OF INTEL-*
12 *LIGENCE.—(1) Under the direction of the Presi-*
13 *dent, the National Intelligence Director shall*
14 *be responsible for ensuring that national intel-*
15 *ligence is provided—*

16 “(A) *to the President;*

17 “(B) *to the heads of departments and*
18 *agencies of the executive branch;*

19 “(C) *to the Chairman of the Joint*
20 *Chiefs of Staff and senior military com-*
21 *manders;*

22 “(D) *where appropriate, to the Senate*
23 *and House of Representatives and the*
24 *committees thereof; and*

1 “(E) *to such other persons as the Na-*
2 *tional Intelligence Director determines to*
3 *be appropriate.*

4 “(2) *Such national intelligence should be*
5 *timely, objective, independent of political con-*
6 *siderations, and based upon all sources avail-*
7 *able to the intelligence community and other*
8 *appropriate entities.*

9 “(b) *ACCESS TO INTELLIGENCE.—To the ex-*
10 *tent approved by the President, the National*
11 *Intelligence Director shall have access to all*
12 *national intelligence and intelligence related*
13 *to the national security which is collected by*
14 *any Federal department, agency, or other enti-*
15 *ty, except as otherwise provided by law or, as*
16 *appropriate, under guidelines agreed upon by*
17 *the Attorney General and the National Intel-*
18 *ligence Director.*

19 “(c) *BUDGET AUTHORITIES.—(1)(A) The Na-*
20 *tional Intelligence Director shall develop and*
21 *present to the President on an annual basis a*
22 *budget for intelligence and intelligence-re-*
23 *lated activities of the United States.*

24 “(B) *In carrying out subparagraph (A) for*
25 *any fiscal year for the components of the budg-*

1 *et that comprise the National Intelligence Pro-*
2 *gram, the National Intelligence Director shall*
3 *provide guidance to the heads of departments*
4 *containing elements of the intelligence com-*
5 *munity, and to the heads of the elements of the*
6 *intelligence community, for development of*
7 *budget inputs to the National Intelligence Di-*
8 *rector.*

9 “(2)(A) *The National Intelligence Director*
10 *shall participate in the development by the*
11 *Secretary of Defense of the annual budgets for*
12 *the Joint Military Intelligence Program and*
13 *for Tactical Intelligence and Related Activi-*
14 *ties.*

15 “(B) *The National Intelligence Director*
16 *shall provide guidance for the development of*
17 *the annual budget for each element of the in-*
18 *telligence community that is not within the*
19 *National Intelligence Program.*

20 “(3) *In carrying out paragraphs (1) and*
21 *(2), the National Intelligence Director may, as*
22 *appropriate, obtain the advice of the Joint In-*
23 *telligence Community Council.*

24 “(4) *The National Intelligence Director*
25 *shall ensure the effective execution of the an-*

1 *nual budget for intelligence and intelligence-*
2 *related activities.*

3 “(5)(A) *The National Intelligence Director*
4 *shall facilitate the management and execution*
5 *of funds appropriated for the National Intel-*
6 *ligence Program.*

7 “(B) *Notwithstanding any other provision*
8 *of law, in receiving funds pursuant to relevant*
9 *appropriations Acts for the National Intel-*
10 *ligence Program, the Office of Management*
11 *and Budget shall apportion funds appro-*
12 *priated for the National Intelligence Program*
13 *to the National Intelligence Director for allo-*
14 *cation to the elements of the intelligence com-*
15 *munity through the host executive depart-*
16 *ments that manage programs and activities*
17 *that are part of the National Intelligence Pro-*
18 *gram.*

19 “(C) *The National Intelligence Director*
20 *shall monitor the implementation and execu-*
21 *tion of the National Intelligence Program by*
22 *the heads of the elements of the intelligence*
23 *community that manage programs and activi-*
24 *ties that are part of the National Intelligence*

1 *Program, which may include audits and eval-*
2 *uations, as necessary and feasible.*

3 “(6) *Apportionment and allotment of funds*
4 *under this subsection shall be subject to chap-*
5 *ter 13 and section 1517 of title 31, United*
6 *States Code, and the Congressional Budget*
7 *and Impoundment Control Act of 1974 (2*
8 *U.S.C. 621 et seq.).*

9 “(7)(A) *The National Intelligence Director*
10 *shall provide a quarterly report, beginning*
11 *April 1, 2005, and ending April 1, 2007, to the*
12 *President and the Congress regarding imple-*
13 *mentation of this section.*

14 “(B) *The National Intelligence Director*
15 *shall report to the President and the Congress*
16 *not later than 5 days after learning of any in-*
17 *stance in which a departmental comptroller*
18 *acts in a manner inconsistent with the law (in-*
19 *cluding permanent statutes, authorization*
20 *Acts, and appropriations Acts), or the direc-*
21 *tion of the National Intelligence Director, in*
22 *carrying out the National Intelligence Pro-*
23 *gram.*

24 “(d) *ROLE OF NATIONAL INTELLIGENCE DI-*
25 *RECTOR IN REPROGRAMMING.—(1) No funds*

1 *made available under the National Intel-*
2 *ligence Program may be transferred or repro-*
3 *grammed without the prior approval of the*
4 *National Intelligence Director, except in ac-*
5 *cordance with procedures prescribed by the*
6 *National Intelligence Director.*

7 “(2) *The Secretary of Defense shall consult*
8 *with the National Intelligence Director before*
9 *transferring or reprogramming funds made*
10 *available under the Joint Military Intelligence*
11 *Program.*

12 “(e) *TRANSFER OF FUNDS OR PERSONNEL*
13 *WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1)*
14 *In addition to any other authorities available*
15 *under law for such purposes, the National In-*
16 *telligence Director, with the approval of the*
17 *Director of the Office of Management and*
18 *Budget—*

19 “(A) *may transfer funds appropriated*
20 *for a program within the National Intel-*
21 *ligence Program to another such pro-*
22 *gram; and*

23 “(B) *in accordance with procedures to*
24 *be developed by the National Intelligence*
25 *Director and the heads of the departments*

1 *and agencies concerned, may transfer per-*
2 *sonnel authorized for an element of the*
3 *intelligence community to another such*
4 *element for periods up to one year.*

5 *“(2) The amounts available for transfer in*
6 *the National Intelligence Program in any*
7 *given fiscal year, and the terms and conditions*
8 *governing such transfers, are subject to the*
9 *provisions of annual appropriations Acts and*
10 *this subsection.*

11 *“(3)(A) A transfer of funds or personnel*
12 *may be made under this subsection only if—*

13 *“(i) the funds or personnel are being*
14 *transferred to an activity that is a higher*
15 *priority intelligence activity;*

16 *“(ii) the need for funds or personnel*
17 *for such activity is based on unforeseen*
18 *requirements;*

19 *“(iii) the transfer does not involve a*
20 *transfer of funds to the Reserve for Con-*
21 *tingencies of the Central Intelligence*
22 *Agency;*

23 *“(iv) in the case of a transfer of funds,*
24 *the transfer results in a cumulative trans-*
25 *fer of funds out of any department or*

1 *agency, as appropriate, funded in the Na-*
2 *tional Intelligence Program in a single*
3 *fiscal year—*

4 *“(I) that is less than \$100,000,000,*
5 *and*

6 *“(II) that is less than 5 percent of*
7 *amounts available to a department or*
8 *agency under the National Intel-*
9 *ligence Program; and*

10 *“(v) the transfer does not terminate a*
11 *program.*

12 *“(B) A transfer may be made without re-*
13 *gard to a limitation set forth in clause (iv) or*
14 *(v) of subparagraph (A) if the transfer has the*
15 *concurrence of the head of the department or*
16 *agency involved. The authority to provide such*
17 *concurrence may only be delegated by the head*
18 *of the department or agency involved to the*
19 *deputy of such officer.*

20 *“(4) Funds transferred under this sub-*
21 *section shall remain available for the same pe-*
22 *riod as the appropriations account to which*
23 *transferred.*

24 *“(5) Any transfer of funds under this sub-*
25 *section shall be carried out in accordance*

1 *with existing procedures applicable to re-*
2 *programming notifications for the appro-*
3 *priate congressional committees. Any proposed*
4 *transfer for which notice is given to the appro-*
5 *priate congressional committees shall be ac-*
6 *companied by a report explaining the nature*
7 *of the proposed transfer and how it satisfies*
8 *the requirements of this subsection. In addi-*
9 *tion, the congressional intelligence committees*
10 *shall be promptly notified of any transfer of*
11 *funds made pursuant to this subsection in any*
12 *case in which the transfer would not have oth-*
13 *erwise required reprogramming notification*
14 *under procedures in effect as of the date of the*
15 *enactment of this subsection.*

16 “(6)(A) *The National Intelligence Director*
17 *shall promptly submit to—*

18 “(i) *the congressional intelligence*
19 *committees,*

20 “(ii) *in the case of the transfer of per-*
21 *sonnel to or from the Department of De-*
22 *fense, the Committee on Armed Services of*
23 *the Senate and the Committee on Armed*
24 *Services of the House of Representatives,*
25 *and*

1 “(iii) *in the case of the transfer of per-*
2 *sonnel to or from the Department of Jus-*
3 *tice, to the Committees on the Judiciary of*
4 *the Senate and the House of Representa-*
5 *tives,*

6 *a report on any transfer of personnel made*
7 *pursuant to this subsection.*

8 “(B) *The Director shall include in any*
9 *such report an explanation of the nature of the*
10 *transfer and how it satisfies the requirements*
11 *of this subsection.*

12 “(f) *TASKING AND OTHER AUTHORITIES.—*
13 (1)(A) *The National Intelligence Director*
14 *shall—*

15 “(i) *develop collection objectives, pri-*
16 *orities, and guidance for the intelligence*
17 *community to ensure timely and effective*
18 *collection, processing, analysis, and dis-*
19 *semination (including access by users to*
20 *collected data consistent with applicable*
21 *law and, as appropriate, the guidelines*
22 *referred to in subsection (b) and analytic*
23 *products generated by or within the intel-*
24 *ligence community) of national intel-*
25 *ligence;*

1 “(ii) *determine and establish require-*
2 *ments and priorities for, and manage and*
3 *direct the tasking of, collection, analysis,*
4 *production, and dissemination of na-*
5 *tional intelligence by elements of the in-*
6 *telligence community, including—*

7 “(I) *approving requirements for*
8 *collection and analysis, and*

9 “(II) *resolving conflicts in collec-*
10 *tion requirements and in the tasking*
11 *of national collection assets of the ele-*
12 *ments of the intelligence community;*
13 *and*

14 “(iii) *provide advisory tasking to intel-*
15 *ligence elements of those agencies and de-*
16 *partments not within the National Intel-*
17 *ligence Program.*

18 “(B) *The authority of the National Intel-*
19 *ligence Director under subparagraph (A) shall*
20 *not apply—*

21 “(i) *insofar as the President so directs;*

22 “(ii) *with respect to clause (ii) of sub-*
23 *paragraph (A), insofar as the Secretary of*
24 *Defense exercises tasking authority under*
25 *plans or arrangements agreed upon by the*

1 ***Secretary of Defense and the National In-***
2 ***telligence Director; or***

3 ***“(iii) to the direct dissemination of in-***
4 ***formation to State government and local***
5 ***government officials and private sector***
6 ***entities pursuant to sections 201 and 892***
7 ***of the Homeland Security Act of 2002 (6***
8 ***U.S.C. 121, 482).***

9 ***“(2) The National Intelligence Director***
10 ***shall oversee the National counterterrorism***
11 ***Center and may establish such other national***
12 ***intelligence centers as the Director determines***
13 ***necessary.***

14 ***“(3)(A) The National Intelligence Director***
15 ***shall prescribe community-wide personnel***
16 ***policies that—***

17 ***“(i) facilitate assignments across com-***
18 ***munity elements and to the intelligence***
19 ***centers;***

20 ***“(ii) establish overarching standards***
21 ***for intelligence education and training;***
22 ***and***

23 ***“(iii) promote the most effective anal-***
24 ***ysis and collection of intelligence by en-***
25 ***suring a diverse workforce, including the***

1 *recruitment and training of women, mi-*
2 *norities, and individuals with diverse,*
3 *ethnic, and linguistic backgrounds.*

4 *“(B) In developing the policies prescribed*
5 *under subparagraph (A), the National Intel-*
6 *ligence Director shall consult with the heads*
7 *of the departments containing the elements of*
8 *the intelligence community.*

9 *“(C) Policies prescribed under subpara-*
10 *graph (A) shall not be inconsistent with the*
11 *personnel policies otherwise applicable to*
12 *members of the uniformed services.*

13 *“(4) The National Intelligence Director*
14 *shall ensure compliance with the Constitution*
15 *and laws of the United States by the Central*
16 *Intelligence Agency and shall ensure such*
17 *compliance by other elements of the intel-*
18 *ligence community through the host executive*
19 *departments that manage the programs and*
20 *activities that are part of the National Intel-*
21 *ligence Program.*

22 *“(5) The National Intelligence Director*
23 *shall ensure the elimination of waste and un-*
24 *necessary duplication within the intelligence*
25 *community.*

1 “(6) *The National Intelligence Director*
2 *shall perform such other functions as the*
3 *President may direct.*

4 *Nothing in this Act shall be construed as af-*
5 *fecting the role of the Department of Justice or*
6 *the Attorney General with respect to applica-*
7 *tions under the Foreign Intelligence Surveil-*
8 *lance Act of 1978.*

9 “(g) *INTELLIGENCE INFORMATION SHARING.—*
10 *(1) The National Intelligence Director shall*
11 *have principal authority to ensure maximum*
12 *availability of and access to intelligence infor-*
13 *mation within the intelligence community con-*
14 *sistent with national security requirements.*
15 *The National Intelligence Director shall—*

16 “(A) *establish uniform security stand-*
17 *ards and procedures;*

18 “(B) *establish common information*
19 *technology standards, protocols, and*
20 *interfaces;*

21 “(C) *ensure development of informa-*
22 *tion technology systems that include*
23 *multi-level security and intelligence inte-*
24 *gration capabilities; and*

1 “(D) *establish policies and procedures*
2 *to resolve conflicts between the need to*
3 *share intelligence information and the*
4 *need to protect intelligence sources and*
5 *methods.*

6 “(2) *The President shall ensure that the*
7 *National Intelligence Director has all nec-*
8 *essary support and authorities to fully and ef-*
9 *fectively implement paragraph (1).*

10 “(3) *Except as otherwise directed by the*
11 *President or with the specific written agree-*
12 *ment of the head of the department or agency*
13 *in question, a Federal agency or official shall*
14 *not be considered to have met any obligation*
15 *to provide any information, report, assess-*
16 *ment, or other material (including*
17 *unevaluated intelligence information) to that*
18 *department or agency solely by virtue of hav-*
19 *ing provided that information, report, assess-*
20 *ment, or other material to the National Intel-*
21 *ligence Director or the National counter-*
22 *terrorism Center.*

23 “(4) *Not later than February 1 of each*
24 *year, the National Intelligence Director shall*
25 *submit to the President and to the Congress an*

1 *annual report that identifies any statute, reg-*
2 *ulation, policy, or practice that the Director*
3 *believes impedes the ability of the Director to*
4 *fully and effectively implement paragraph (1).*

5 “(h) ANALYSIS.—(1) *The National Intel-*
6 *ligence Director shall ensure that all elements*
7 *of the intelligence community strive for the*
8 *most accurate analysis of intelligence derived*
9 *from all sources to support national security*
10 *needs.*

11 “(2) *The National Intelligence Director*
12 *shall ensure that intelligence analysis gen-*
13 *erally receives the highest priority when dis-*
14 *tributing resources within the intelligence*
15 *community and shall carry out duties under*
16 *this subsection in a manner that—*

17 “(A) *develops all-source analysis tech-*
18 *niques;*

19 “(B) *ensures competitive analysis;*

20 “(C) *ensures that differences in judg-*
21 *ment are fully considered and brought to*
22 *the attention of policymakers; and*

23 “(D) *builds relationships between in-*
24 *telligence collectors and analysts to facili-*

1 *tate greater understanding of the needs of*
2 *analysts.*

3 “(i) *PROTECTION OF INTELLIGENCE SOURCES*
4 *AND METHODS.—(1) In order to protect intel-*
5 *ligence sources and methods from unauthor-*
6 *ized disclosure and, consistent with that pro-*
7 *tection, to maximize the dissemination of intel-*
8 *ligence, the National Intelligence Director*
9 *shall establish and implement guidelines for*
10 *the intelligence community for the following*
11 *purposes:*

12 “(A) *Classification of information.*

13 “(B) *Access to and dissemination of*
14 *intelligence, both in final form and in the*
15 *form when initially gathered.*

16 “(C) *Preparation of intelligence prod-*
17 *ucts in such a way that source informa-*
18 *tion is removed to allow for dissemination*
19 *at the lowest level of classification pos-*
20 *sible or in unclassified form to the extent*
21 *practicable.*

22 “(2) *The Director may only delegate a duty*
23 *or authority given the Director under this sub-*
24 *section to the Deputy National Intelligence Di-*
25 *rector.*

1 “(j) **UNIFORM PROCEDURES FOR SENSITIVE**
2 **COMPARTMENTED INFORMATION.—The Presi-**
3 **dent, acting through the National Intelligence**
4 **Director, shall—**

5 “(1) *establish uniform standards and*
6 *procedures for the grant of access to sen-*
7 *sitive compartmented information to any*
8 *officer or employee of any agency or de-*
9 *partment of the United States and to em-*
10 *ployees of contractors of those agencies or*
11 *departments;*

12 “(2) *ensure the consistent implementa-*
13 *tion of those standards and procedures*
14 *throughout such agencies and depart-*
15 *ments;*

16 “(3) *ensure that security clearances*
17 *granted by individual elements of the in-*
18 *telligence community are recognized by*
19 *all elements of the intelligence commu-*
20 *nity, and under contracts entered into by*
21 *those agencies; and*

22 “(4) *ensure that the process for inves-*
23 *tigation and adjudication of an applica-*
24 *tion for access to sensitive compartmented*
25 *information is performed in the most ex-*

1 *peditious manner possible consistent with*
2 *applicable standards for national secu-*
3 *rity.*

4 **“(k) COORDINATION WITH FOREIGN GOVERN-**
5 **MENTS.—***Under the direction of the President*
6 *and in a manner consistent with section 207*
7 *of the Foreign Service Act of 1980 (22 U.S.C.*
8 *3927), the National Intelligence Director shall*
9 *oversee the coordination of the relationships*
10 *between elements of the intelligence commu-*
11 *nity and the intelligence or security services of*
12 *foreign governments on all matters involving*
13 *intelligence related to the national security or*
14 *involving intelligence acquired through clan-*
15 *destine means.*

16 **“(l) ENHANCED PERSONNEL MANAGEMENT.—**
17 **(1)(A) The National Intelligence Director**
18 **shall, under regulations prescribed by the Di-**
19 **rector, provide incentives for personnel of ele-**
20 **ments of the intelligence community to serve—**

21 **“(i) on the staff of the National Intel-**
22 **ligence Director;**

23 **“(ii) on the staff of the national intel-**
24 **ligence centers;**

1 “(iii) on the staff of the National
2 counterterrorism Center; and

3 “(iv) in other positions in support of
4 the intelligence community management
5 functions of the Director.

6 “(B) Incentives under subparagraph (A)
7 may include financial incentives, bonuses, and
8 such other awards and incentives as the Direc-
9 tor considers appropriate.

10 “(2)(A) Notwithstanding any other provi-
11 sion of law, the personnel of an element of the
12 intelligence community who are assigned or
13 detailed under paragraph (1)(A) to service
14 under the National Intelligence Director shall
15 be promoted at rates equivalent to or better
16 than personnel of such element who are not so
17 assigned or detailed.

18 “(B) The Director may prescribe regula-
19 tions to carry out this section.

20 “(3)(A) The National Intelligence Director
21 shall prescribe mechanisms to facilitate the
22 rotation of personnel of the intelligence com-
23 munity through various elements of the intel-
24 ligence community in the course of their ca-
25 reers in order to facilitate the widest possible

1 *understanding by such personnel of the variety*
2 *of intelligence requirements, methods, users,*
3 *and capabilities.*

4 “(B) *The mechanisms prescribed under*
5 *subparagraph (A) may include the following:*

6 “(i) *The establishment of special occu-*
7 *pational categories involving service, over*
8 *the course of a career, in more than one*
9 *element of the intelligence community.*

10 “(ii) *The provision of rewards for serv-*
11 *ice in positions undertaking analysis and*
12 *planning of operations involving two or*
13 *more elements of the intelligence commu-*
14 *nity.*

15 “(iii) *The establishment of require-*
16 *ments for education, training, service,*
17 *and evaluation that involve service in*
18 *more than one element of the intelligence*
19 *community.*

20 “(C) *It is the sense of Congress that the*
21 *mechanisms prescribed under this subsection*
22 *should, to the extent practical, seek to dupli-*
23 *cate for civilian personnel within the intel-*
24 *ligence community the joint officer manage-*
25 *ment policies established by chapter 38 of title*

1 *10, United States Code, and the other amend-*
2 *ments made by title IV of the Goldwater-Nich-*
3 *ols Department of Defense Reorganization Act*
4 *of 1986 (Public Law 99–433).*

5 “(4)(A) *This subsection shall not apply*
6 *with respect to personnel of the elements of the*
7 *intelligence community who are members of*
8 *the uniformed services or law enforcement offi-*
9 *cers (as that term is defined in section 5541(3)*
10 *of title 5, United States Code).*

11 “(B) *Assignment to the Office of the Na-*
12 *tional Intelligence Director of commissioned*
13 *officers of the Armed Forces shall be consid-*
14 *ered a joint-duty assignment for purposes of*
15 *the joint officer management policies pre-*
16 *scribed by chapter 38 of title 10, United States*
17 *Code, and other provisions of that title.*

18 “(m) *ADDITIONAL AUTHORITY WITH RESPECT*
19 *TO PERSONNEL.—(1) In addition to the authori-*
20 *ties under subsection (f)(3), the National Intel-*
21 *ligence Director may exercise with respect to*
22 *the personnel of the Office of the National In-*
23 *telligence Director any authority of the Direc-*
24 *tor of the Central Intelligence Agency with re-*
25 *spect to the personnel of the Central Intel-*

1 *ligence Agency under the Central Intelligence*
2 *Agency Act of 1949 (50 U.S.C. 403a et seq.), and*
3 *other applicable provisions of law, as of the*
4 *date of the enactment of this subsection to the*
5 *same extent, and subject to the same condi-*
6 *tions and limitations, that the Director of the*
7 *Central Intelligence Agency may exercise such*
8 *authority with respect to personnel of the Cen-*
9 *tral Intelligence Agency.*

10 “(2) *Employees and applicants for employ-*
11 *ment of the Office of the National Intelligence*
12 *Director shall have the same rights and pro-*
13 *tections under the Office of the National Intel-*
14 *ligence Director as employees of the Central*
15 *Intelligence Agency have under the Central In-*
16 *telligence Agency Act of 1949, and other appli-*
17 *cable provisions of law, as of the date of the*
18 *enactment of this subsection.*

19 “(n) ACQUISITION AUTHORITIES.—(1) *In car-*
20 *rying out the responsibilities and authorities*
21 *under this section, the National Intelligence*
22 *Director may exercise the acquisition authori-*
23 *ties referred to in the Central Intelligence*
24 *Agency Act of 1949 (50 U.S.C. 403a et seq.).*

1 “(2) *For the purpose of the exercise of any*
2 *authority referred to in paragraph (1), a ref-*
3 *erence to the head of an agency shall be*
4 *deemed to be a reference to the National Intel-*
5 *ligence Director or the Deputy National Intel-*
6 *ligence Director.*

7 “(3)(A) *Any determination or decision to be*
8 *made under an authority referred to in para-*
9 *graph (1) by the head of an agency may be*
10 *made with respect to individual purchases*
11 *and contracts or with respect to classes of pur-*
12 *chases or contracts, and shall be final.*

13 “(B) *Except as provided in subparagraph*
14 *(C), the National Intelligence Director or the*
15 *Deputy National Intelligence Director may, in*
16 *such official’s discretion, delegate to any offi-*
17 *cer or other official of the Office of the Na-*
18 *tional Intelligence Director any authority to*
19 *make a determination or decision as the head*
20 *of the agency under an authority referred to in*
21 *paragraph (1).*

22 “(C) *The limitations and conditions set*
23 *forth in section 3(d) of the Central Intelligence*
24 *Agency Act of 1949 (50 U.S.C. 403c(d)) shall*
25 *apply to the exercise by the National Intel-*

1 *ligence Director of an authority referred to in*
2 *paragraph (1).*

3 “(D) *Each determination or decision re-*
4 *quired by an authority referred to in the sec-*
5 *ond sentence of section 3(d) of the Central In-*
6 *telligence Agency Act of 1949 shall be based*
7 *upon written findings made by the official*
8 *making such determination or decision, which*
9 *findings shall be final and shall be available*
10 *within the Office of the National Intelligence*
11 *Director for a period of at least six years fol-*
12 *lowing the date of such determination or deci-*
13 *sion.*

14 “(o) *CONSIDERATION OF VIEWS OF ELEMENTS*
15 *OF THE INTELLIGENCE COMMUNITY.—In carrying*
16 *out the duties and responsibilities under this*
17 *section, the National Intelligence Director*
18 *shall take into account the views of a head of*
19 *a department containing an element of the in-*
20 *telligence community and of the Director of*
21 *the Central Intelligence Agency.*

22 “OFFICE OF THE NATIONAL INTELLIGENCE
23 DIRECTOR

24 **“SEC. 103. (a) ESTABLISHMENT OF OFFICE;**
25 **FUNCTION.—(1) There is an Office of the Na-**
26 **tional Intelligence Director. The Office of the**

1 *National Intelligence Director shall not be lo-*
2 *cated within the Executive Office of the Presi-*
3 *dent.*

4 “(2) *The function of the Office is to assist*
5 *the National Intelligence Director in carrying*
6 *out the duties and responsibilities of the Direc-*
7 *tor under this Act and to carry out such other*
8 *duties as may be prescribed by the President*
9 *or by law.*

10 “(3) *Any authority, power, or function vest-*
11 *ed by law in any officer, employee, or part of*
12 *the Office of the National Intelligence Director*
13 *is vested in, or may be exercised by, the Na-*
14 *tional Intelligence Director.*

15 “(4) *Exemptions, exceptions, and exclu-*
16 *sions for the Central Intelligence Agency or for*
17 *personnel, resources, or activities of such*
18 *Agency from otherwise applicable laws, other*
19 *than the exception contained in section*
20 *104A(c)(1) shall apply in the same manner to*
21 *the Office of the National Intelligence Director*
22 *and the personnel, resources, or activities of*
23 *such Office.*

1 ***“(b) OFFICE OF NATIONAL INTELLIGENCE DI-***
2 ***RECTOR.—(1) The Office of the National Intel-***
3 ***ligence Director is composed of the following:***

4 ***“(A) The National Intelligence Direc-***
5 ***tor.***

6 ***“(B) The Deputy National Intelligence***
7 ***Director.***

8 ***“(C) The Deputy National Intelligence***
9 ***Director for Operations.***

10 ***“(D) The Deputy National Intelligence***
11 ***Director for Community Management and***
12 ***Resources.***

13 ***“(E) The Associate National Intel-***
14 ***ligence Director for Military Support.***

15 ***“(F) The Associate National Intel-***
16 ***ligence Director for Domestic Security.***

17 ***“(G) The Associate National Intel-***
18 ***ligence Director for Diplomatic Affairs.***

19 ***“(H) The National Intelligence Coun-***
20 ***cil.***

21 ***“(I) The General Counsel to the Na-***
22 ***tional Intelligence Director.***

23 ***“(J) Such other offices and officials as***
24 ***may be established by law or the National***

1 ***Intelligence Director may establish or des-***
2 ***ignate in the Office.***

3 ***“(2) To assist the National Intelligence Di-***
4 ***rector in fulfilling the duties and responsibil-***
5 ***ities of the Director, the Director shall employ***
6 ***and utilize in the Office of the National Intel-***
7 ***ligence Director a staff having expertise in***
8 ***matters relating to such duties and respon-***
9 ***sibilities and may establish permanent posi-***
10 ***tions and appropriate rates of pay with re-***
11 ***spect to such staff.***

12 ***“(c) DEPUTY NATIONAL INTELLIGENCE DIREC-***
13 ***TOR.—(1) There is a Deputy National Intel-***
14 ***ligence Director who shall be appointed by the***
15 ***President, by and with the advice and consent***
16 ***of the Senate.***

17 ***“(2) The Deputy National Intelligence Di-***
18 ***rector shall assist the National Intelligence***
19 ***Director in carrying out the responsibilities of***
20 ***the National Intelligence Director under this***
21 ***Act.***

22 ***“(3) The Deputy National Intelligence Di-***
23 ***rector shall act for, and exercise the powers of,***
24 ***the National Intelligence Director during the***
25 ***absence or disability of the National Intel-***

1 *ligence Director or during a vacancy in the po-*
2 *sition of the National Intelligence Director.*

3 “(4) *The Deputy National Intelligence Di-*
4 *rector takes precedence in the Office of the Na-*
5 *tional Intelligence Director immediately after*
6 *the National Intelligence Director.*

7 “(d) *DEPUTY NATIONAL INTELLIGENCE DI-*
8 *RECTOR FOR OPERATIONS.—(1) There is a Dep-*
9 *uty National Intelligence Director for Oper-*
10 *ations.*

11 “(2) *The Deputy National Intelligence Di-*
12 *rector for Operations shall—*

13 “(A) *assist the National Intelligence*
14 *Director in all aspects of intelligence op-*
15 *erations, including intelligence tasking,*
16 *requirements, collection, and analysis;*

17 “(B) *assist the National Intelligence*
18 *Director in overseeing the national intel-*
19 *ligence centers; and*

20 “(C) *perform such other duties and ex-*
21 *ercise such powers as National Intel-*
22 *ligence Director may prescribe.*

23 “(e) *DEPUTY NATIONAL INTELLIGENCE DIREC-*
24 *TOR FOR COMMUNITY MANAGEMENT AND RE-*
25 *SOURCES.—(1) There is a Deputy National In-*

1 *telligence Director for Community Manage-*
2 *ment and Resources.*

3 “(2) *The Deputy National Intelligence Di-*
4 *rector for Community Management and Re-*
5 *sources shall—*

6 “(A) *assist the National Intelligence*
7 *Director in all aspects of management*
8 *and resources, including administration,*
9 *budgeting, information security, per-*
10 *sonnel, training, and programmatic func-*
11 *tions; and*

12 “(B) *perform such other duties and ex-*
13 *ercise such powers as the National Intel-*
14 *ligence Director may prescribe.*

15 “(f) *ASSOCIATE NATIONAL INTELLIGENCE DI-*
16 *RECTOR FOR MILITARY SUPPORT.—(1) There is*
17 *an Associate National Intelligence Director*
18 *for Military Support who shall be appointed by*
19 *the National Intelligence Director, in con-*
20 *sultation with the Secretary of Defense.*

21 “(2) *The Associate National Intelligence*
22 *Director for Military Support shall—*

23 “(A) *ensure that the intelligence needs*
24 *of the Department of Defense are met; and*

1 “(B) *perform such other duties and ex-*
2 *ercise such powers as the National Intel-*
3 *ligence Director may prescribe.*

4 “(g) *ASSOCIATE NATIONAL INTELLIGENCE DI-*
5 *RECTOR FOR DOMESTIC SECURITY.—(1) There is*
6 *an Associate National Intelligence Director*
7 *for Domestic Security who shall be appointed*
8 *by the National Intelligence Director in con-*
9 *sultation with the Attorney General and the*
10 *Secretary of Homeland Security.*

11 “(2) *The Associate National Intelligence*
12 *Director for Domestic Security shall—*

13 “(A) *ensure that the intelligence needs*
14 *of the Department of Justice, the Depart-*
15 *ment of Homeland Security, and other rel-*
16 *evant executive departments and agencies*
17 *are met; and*

18 “(B) *perform such other duties and ex-*
19 *ercise such powers as the National Intel-*
20 *ligence Director may prescribe, except*
21 *that the National Intelligence Director*
22 *may not make such officer responsible for*
23 *disseminating any domestic or homeland*
24 *security information to State government*

1 *or local government officials or any pri-*
2 *vate sector entity.*

3 *“(h) ASSOCIATE NATIONAL INTELLIGENCE DI-*
4 *RECTOR FOR DIPLOMATIC AFFAIRS.—(1) There is*
5 *an Associate National Intelligence Director*
6 *for Diplomatic Affairs who shall be appointed*
7 *by the National Intelligence Director in con-*
8 *sultation with the Secretary of State.*

9 *“(2) The Associate National Intelligence*
10 *Director for Diplomatic Affairs shall—*

11 *“(A) ensure that the intelligence needs*
12 *of the Department of State are met; and*

13 *“(B) perform such other duties and ex-*
14 *ercise such powers as the National Intel-*
15 *ligence Director may prescribe.*

16 *“(i) MILITARY STATUS OF DIRECTOR AND*
17 *DEPUTY DIRECTORS.—(1) Not more than one of*
18 *the individuals serving in the positions speci-*
19 *fied in paragraph (2) may be a commissioned*
20 *officer of the Armed Forces in active status.*

21 *“(2) The positions referred to in this para-*
22 *graph are the following:*

23 *“(A) The National Intelligence Direc-*
24 *tor.*

1 ***“(B) The Deputy National Intelligence***
2 ***Director.***

3 ***“(3) It is the sense of Congress that, under***
4 ***ordinary circumstances, it is desirable that***
5 ***one of the individuals serving in the positions***
6 ***specified in paragraph (2)—***

7 ***“(A) be a commissioned officer of the***
8 ***Armed Forces, in active status; or***

9 ***“(B) have, by training or experience,***
10 ***an appreciation of military intelligence***
11 ***activities and requirements.***

12 ***“(4) A commissioned officer of the Armed***
13 ***Forces, while serving in a position specified in***
14 ***paragraph (2)—***

15 ***“(A) shall not be subject to supervision***
16 ***or control by the Secretary of Defense or***
17 ***by any officer or employee of the Depart-***
18 ***ment of Defense;***

19 ***“(B) shall not exercise, by reason of***
20 ***the officer’s status as a commissioned offi-***
21 ***cer, any supervision or control with re-***
22 ***spect to any of the military or civilian per-***
23 ***sonnel of the Department of Defense ex-***
24 ***cept as otherwise authorized by law; and***

1 “(C) *shall not be counted against the*
2 *numbers and percentages of commis-*
3 *sioned officers of the rank and grade of*
4 *such officer authorized for the military*
5 *department of that officer.*

6 “(5) *Except as provided in subparagraph*
7 *(A) or (B) of paragraph (4), the appointment*
8 *of an officer of the Armed Forces to a position*
9 *specified in paragraph (2) shall not affect the*
10 *status, position, rank, or grade of such officer*
11 *in the Armed Forces, or any emolument, per-*
12 *quisite, right, privilege, or benefit incident to*
13 *or arising out of such status, position, rank, or*
14 *grade.*

15 “(6) *A commissioned officer of the Armed*
16 *Forces on active duty who is appointed to a po-*
17 *sition specified in paragraph (2), while serv-*
18 *ing in such position and while remaining on*
19 *active duty, shall continue to receive military*
20 *pay and allowances and shall not receive the*
21 *pay prescribed for such position. Funds from*
22 *which such pay and allowances are paid shall*
23 *be reimbursed from funds available to the Na-*
24 *tional Intelligence Director.*

1 “(j) *NATIONAL INTELLIGENCE COUNCIL.—(1)*
2 *Within the Office of the Deputy National Intel-*
3 *ligence Director for Operations, there is a Na-*
4 *tional Intelligence Council.*

5 “(2)(A) *The National Intelligence Council*
6 *shall be composed of senior analysts within*
7 *the intelligence community and substantive*
8 *experts from the public and private sector,*
9 *who shall be appointed by and report to the*
10 *Deputy National Intelligence Director for Op-*
11 *erations.*

12 “(B) *The Director shall prescribe appro-*
13 *priate security requirements for personnel ap-*
14 *pointed from the private sector as a condition*
15 *of service on the Council, or as contractors of*
16 *the Council or employees of such contractors,*
17 *to ensure the protection of intelligence sources*
18 *and methods while avoiding, wherever pos-*
19 *sible, unduly intrusive requirements which the*
20 *Director considers to be unnecessary for this*
21 *purpose.*

22 “(3) *The National Intelligence Council*
23 *shall—*

24 “(A) *produce national intelligence es-*
25 *timates for the United States Government,*

1 *which shall include as a part of such esti-*
2 *mates in their entirety, alternative views,*
3 *if any, held by elements of the intelligence*
4 *community;*

5 “(B) *evaluate community-wide collec-*
6 *tion and production of intelligence by the*
7 *intelligence community and the require-*
8 *ments and resources of such collection*
9 *and production; and*

10 “(C) *otherwise assist the National In-*
11 *telligence Director in carrying out the re-*
12 *sponsibility of the National Intelligence*
13 *Director to provide national intelligence.*

14 “(4) *Within their respective areas of exper-*
15 *tise and under the direction of the Deputy Na-*
16 *tional Intelligence Director for Operations, the*
17 *members of the National Intelligence Council*
18 *shall constitute the senior intelligence advis-*
19 *ers of the intelligence community for purposes*
20 *of representing the views of the intelligence*
21 *community within the United States Govern-*
22 *ment.*

23 “(5) *Subject to the direction and control of*
24 *the Deputy National Intelligence Director for*
25 *Operations, the National Intelligence Council*

1 *may carry out its responsibilities under this*
2 *section by contract, including contracts for*
3 *substantive experts necessary to assist the*
4 *Council with particular assessments under*
5 *this subsection.*

6 “(6) *The Deputy National Intelligence Di-*
7 *rector for Operations shall make available to*
8 *the National Intelligence Council such per-*
9 *sonnel as may be necessary to permit the Coun-*
10 *cil to carry out its responsibilities under this*
11 *section.*

12 “(7) *The heads of the elements of the intel-*
13 *ligence community shall, as appropriate, fur-*
14 *nish such support to the National Intelligence*
15 *Council, including the preparation of intel-*
16 *ligence analyses, as may be required by the Na-*
17 *tional Intelligence Director.*

18 “(k) *GENERAL COUNSEL TO THE NATIONAL*
19 *INTELLIGENCE DIRECTOR.—(1) There is a Gen-*
20 *eral Counsel to the National Intelligence Di-*
21 *rector.*

22 “(2) *The individual serving in the position*
23 *of General Counsel to the National Intel-*
24 *ligence Director may not, while so serving, also*

1 *serve as the General Counsel of any other*
2 *agency or department of the United States.*

3 *“(3) The General Counsel to the National*
4 *Intelligence Director is the chief legal officer*
5 *for the National Intelligence Director.*

6 *“(4) The General Counsel to the National*
7 *Intelligence Director shall perform such func-*
8 *tions as the National Intelligence Director*
9 *may prescribe.*

10 *“(1) INTELLIGENCE COMMUNITY INFORMATION*
11 *TECHNOLOGY OFFICER.—(1) There is an Intel-*
12 *ligence Community Information Technology*
13 *Officer who shall be appointed by the National*
14 *Intelligence Director.*

15 *“(2) The mission of the Intelligence Com-*
16 *munity Information Technology Officer is to*
17 *assist the National Intelligence Director in en-*
18 *suring the sharing of information in the full-*
19 *est and most prompt manner between and*
20 *among elements of the intelligence community*
21 *consistent with section 102A(g).*

22 *“(3) The Intelligence Community Informa-*
23 *tion Technology Officer shall—*

24 *“(A) assist the Deputy National Intel-*
25 *ligence Director for Community Manage-*

1 *ment and Resources in developing and im-*
2 *plementing an integrated information*
3 *technology network;*

4 *“(B) develop an enterprise architec-*
5 *ture for the intelligence community and*
6 *assist the Deputy National Intelligence*
7 *Director for Community Management and*
8 *Resources in ensuring that elements of the*
9 *intelligence community comply with such*
10 *architecture;*

11 *“(C) have procurement approval au-*
12 *thority over all enterprise architecture-re-*
13 *lated information technology items fund-*
14 *ed in the National Intelligence Program;*

15 *“(D) ensure that all such elements*
16 *have the most direct and continuous elec-*
17 *tronic access to all information (includ-*
18 *ing unevaluated intelligence consistent*
19 *with existing laws and the guidelines re-*
20 *ferred to in section 102A(b)) necessary for*
21 *appropriately cleared analysts to conduct*
22 *comprehensive all-source analysis and for*
23 *appropriately cleared policymakers to*
24 *perform their duties—*

1 “(i) directly, in the case of the ele-
2 ments of the intelligence community
3 within the National Intelligence Pro-
4 gram, and

5 “(ii) in conjunction with the Sec-
6 retary of Defense and other applicable
7 heads of departments with intel-
8 ligence elements outside the National
9 Intelligence Program;

10 “(E) review and provide recommenda-
11 tions to the Deputy National Intelligence
12 Director for Community Management and
13 Resources on National Intelligence Pro-
14 gram budget requests for information
15 technology and national security systems;

16 “(F) assist the Deputy National Intel-
17 ligence Director for Community Manage-
18 ment and Resources in promulgating and
19 enforcing standards on information tech-
20 nology and national security systems that
21 apply throughout the elements of the in-
22 telligence community;

23 “(G) ensure that within and between
24 the elements of the National Intelligence
25 Program, duplicative and unnecessary in-

1 *formation technology and national secu-*
2 *rity systems are eliminated; and*

3 *“(H) pursuant to the direction of the*
4 *National Intelligence Director, consult*
5 *with the Director of the Office of Manage-*
6 *ment and Budget to ensure that the Office*
7 *of the National Intelligence Director co-*
8 *ordinates and complies with national se-*
9 *curity requirements consistent with appli-*
10 *cable law, Executive orders, and guid-*
11 *ance; and*

12 *“(I) perform such other duties with re-*
13 *spect to the information systems and in-*
14 *formation technology of the Office of the*
15 *National Intelligence Director as may be*
16 *prescribed by the Deputy National Intel-*
17 *ligence Director for Community Manage-*
18 *ment and Resources or specified by law.*

19 *“CENTRAL INTELLIGENCE AGENCY*

20 *“SEC. 104. (a) CENTRAL INTELLIGENCE AGEN-*
21 *CY.—There is a Central Intelligence Agency.*

22 *“(b) FUNCTION.—The function of the Cen-*
23 *tral Intelligence Agency is to assist the Direc-*
24 *tor of the Central Intelligence Agency in car-*
25 *rying out the responsibilities specified in sec-*
26 *tion 104A(c).*

1 ***“DIRECTOR OF THE CENTRAL INTELLIGENCE***
2 ***AGENCY***

3 ***“SEC. 104A. (a) DIRECTOR OF CENTRAL IN-***
4 ***TELLIGENCE AGENCY.—There is a Director of the***
5 ***Central Intelligence Agency who shall be ap-***
6 ***pointed by the President, by and with the ad-***
7 ***vice and consent of the Senate. The Director***
8 ***shall be under the authority, direction, and***
9 ***control of the National Intelligence Director,***
10 ***except as otherwise determined by the Presi-***
11 ***dent.***

12 ***“(b) DUTIES.—In the capacity as Director of***
13 ***the Central Intelligence Agency, the Director***
14 ***of the Central Intelligence Agency shall—***

15 ***“(1) carry out the responsibilities spec-***
16 ***ified in subsection (c); and***

17 ***“(2) serve as the head of the Central***
18 ***Intelligence Agency.***

19 ***“(c) RESPONSIBILITIES.—The Director of the***
20 ***Central Intelligence Agency shall—***

21 ***“(1) collect intelligence through***
22 ***human sources and by other appropriate***
23 ***means, except that the Director of the***
24 ***Central Intelligence Agency shall have no***

1 *police, subpoena, or law enforcement pow-*
2 *ers or internal security functions;*

3 *“(2) provide overall direction for the*
4 *collection of national intelligence through*
5 *human sources by elements of the intel-*
6 *ligence community authorized to under-*
7 *take such collection and, in coordination*
8 *with other agencies of the Government*
9 *which are authorized to undertake such*
10 *collection, ensure that the most effective*
11 *use is made of resources and that the*
12 *risks to the United States and those in-*
13 *volved in such collection are minimized;*

14 *“(3) correlate and evaluate intel-*
15 *ligence related to the national security*
16 *and provide appropriate dissemination of*
17 *such intelligence;*

18 *“(4) perform such additional services*
19 *as are of common concern to the elements*
20 *of the intelligence community, which serv-*
21 *ices the National Intelligence Director de-*
22 *termines can be more efficiently accom-*
23 *plished centrally; and*

24 *“(5) perform such other functions and*
25 *duties related to intelligence affecting the*

1 *national security as the President or the*
2 *National Intelligence Director may direct.*

3 “(d) *DEPUTY DIRECTOR OF THE CENTRAL IN-*
4 *TELLIGENCE AGENCY.—There is a Deputy Direc-*
5 *tor of the Central Intelligence Agency who*
6 *shall be appointed by the President. The Dep-*
7 *uty Director shall perform such functions as*
8 *the Director may prescribe and shall perform*
9 *the duties of the Director during the Director’s*
10 *absence or disability or during a vacancy in*
11 *the position of the Director of the Central In-*
12 *telligence Agency.*

13 “(e) *TERMINATION OF EMPLOYMENT OF CIA*
14 *EMPLOYEES.—(1) Notwithstanding the provi-*
15 *sions of any other law, the Director of the Cen-*
16 *tral Intelligence Agency may, in the discretion*
17 *of the Director, terminate the employment of*
18 *any officer or employee of the Central Intel-*
19 *ligence Agency whenever the Director con-*
20 *siders the termination of employment of such*
21 *officer or employee necessary or advisable in*
22 *the interests of the United States.*

23 “(2) *Any termination of employment of an*
24 *officer or employee under paragraph (1) shall*
25 *not affect the right of the officer or employee*

1 *to seek or accept employment in any other de-*
2 *partment, agency, or element of the United*
3 *States Government if declared eligible for such*
4 *employment by the Office of Personnel Man-*
5 *agement.”.*

6 **(b) FIRST DIRECTOR.**—(1) *When the Senate*
7 *receives the nomination of a person for the ini-*
8 *tial appointment by the President for the posi-*
9 *tion of National Intelligence Director, it shall*
10 *consider and dispose of such nomination with-*
11 *in a period of 30 legislative days.*

12 (2) *If the Senate does not dispose of such*
13 *nomination referred to in paragraph (1) with-*
14 *in such period—*

15 **(A)** *Senate confirmation is not re-*
16 *quired; and*

17 **(B)** *the appointment of such nominee*
18 *as National Intelligence Director takes ef-*
19 *fect upon administration of the oath of of-*
20 *fice.*

21 (3) *For the purposes of this subsection, the*
22 *term “legislative day” means a day on which*
23 *the Senate is in session.*

1 *SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-*
2 *LIGENCE.*

3 *Paragraph (5) of section 3 of the National*
4 *Security Act of 1947 (50 U.S.C. 401a) is amend-*
5 *ed to read as follows:*

6 *“(5) The terms ‘national intelligence’*
7 *and ‘intelligence related to national secu-*
8 *rity’ refer to all intelligence, regardless of*
9 *the source from which derived and includ-*
10 *ing information gathered within or out-*
11 *side the United States, that—*

12 *“(A) pertains, as determined con-*
13 *sistent with any guidance issued by*
14 *the President, to more than one*
15 *United States Government agency;*
16 *and*

17 *“(B) that involves—*

18 *“(i) threats to the United*
19 *States, its people, property, or in-*
20 *terests;*

21 *“(ii) the development, pro-*
22 *liferation, or use of weapons of*
23 *mass destruction; or*

24 *“(iii) any other matter bearing*
25 *on United States national or*
26 *homeland security.”.*

1 *SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL CO-*
2 *ORDINATION BETWEEN DEPARTMENT OF DE-*
3 *FENSE AND CENTRAL INTELLIGENCE AGEN-*
4 *CY.*

5 *(a) DEVELOPMENT OF PROCEDURES.—The*
6 *National Intelligence Director, in consultation*
7 *with the Secretary of Defense and the Director*
8 *of the Central Intelligence Agency, shall de-*
9 *velop joint procedures to be used by the De-*
10 *partment of Defense and the Central Intel-*
11 *ligence Agency to improve the coordination*
12 *and deconfliction of operations that involve*
13 *elements of both the Armed Forces and the*
14 *Central Intelligence Agency consistent with*
15 *national security and the protection of human*
16 *intelligence sources and methods. Those proce-*
17 *dures shall, at a minimum, provide the fol-*
18 *lowing:*

19 *(1) Methods by which the Director of*
20 *the Central Intelligence Agency and the*
21 *Secretary of Defense can improve commu-*
22 *nication and coordination in the plan-*
23 *ning, execution, and sustainment of oper-*
24 *ations, including, as a minimum—*

25 *(A) information exchange between*
26 *senior officials of the Central Intel-*

1 *ligence Agency and senior officers and*
2 *officials of the Department of Defense*
3 *when planning for such an operation*
4 *commences by either organization;*
5 *and*

6 *(B) exchange of information be-*
7 *tween the Secretary and the Director*
8 *of the Central Intelligence Agency to*
9 *ensure that senior operational offi-*
10 *cials in both the Department of De-*
11 *fense and the Central Intelligence*
12 *Agency have knowledge of the exist-*
13 *ence of the ongoing operations of the*
14 *other.*

15 *(2) When appropriate, in cases where*
16 *the Department of Defense and the Cen-*
17 *tral Intelligence Agency are conducting*
18 *separate missions in the same geo-*
19 *graphical area, mutual agreement on the*
20 *tactical and strategic objectives for the re-*
21 *gion and a clear delineation of oper-*
22 *ational responsibilities to prevent conflict*
23 *and duplication of effort.*

24 *(b) IMPLEMENTATION REPORT.—Not later*
25 *than 180 days after the date of the enactment*

1 *of the Act, the National Intelligence Director*
2 *shall submit to the congressional defense com-*
3 *mittees (as defined in section 101 of title 10,*
4 *United States Code) and the congressional in-*
5 *telligence committees (as defined in section*
6 *3(7) of the National Security Act of 1947 (50*
7 *U.S.C. 401a(7))) a report describing the proce-*
8 *dures established pursuant to subsection (a)*
9 *and the status of the implementation of those*
10 *procedures.*

11 *SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN*
12 *APPOINTMENT OF CERTAIN OFFICIALS RE-*
13 *SPONSIBLE FOR INTELLIGENCE-RELATED AC-*
14 *TIVITIES.*

15 *Section 106 of the National Security Act of*
16 *1947 (50 U.S.C. 403–6) is amended by striking*
17 *all after the heading and inserting the fol-*
18 *lowing:*

19 *“(a) RECOMMENDATION OF NID IN CERTAIN*
20 *APPOINTMENTS.—(1) In the event of a vacancy*
21 *in a position referred to in paragraph (2), the*
22 *National Intelligence Director shall rec-*
23 *ommend to the President an individual for*
24 *nomination to fill the vacancy.*

1 “(2) *Paragraph (1) applies to the following*
2 *positions:*

3 “(A) *The Deputy National Intelligence*
4 *Director.*

5 “(B) *The Director of the Central Intel-*
6 *ligence Agency.*

7 “(b) *CONCURRENCE OF NID IN APPOINT-*
8 *MENTS TO POSITIONS IN THE INTELLIGENCE COM-*
9 *MUNITY.—(1) In the event of a vacancy in a po-*
10 *sition referred to in paragraph (2), the head*
11 *of the department or agency having jurisdic-*
12 *tion over the position shall obtain the concur-*
13 *rence of the National Intelligence Director be-*
14 *fore appointing an individual to fill the va-*
15 *cancy or recommending to the President an in-*
16 *dividual to be nominated to fill the vacancy.*
17 *If the Director does not concur in the rec-*
18 *ommendation, the head of the department or*
19 *agency concerned may not fill the vacancy or*
20 *make the recommendation to the President (as*
21 *the case may be).*

22 “(2) *Paragraph (1) applies to the following*
23 *positions:*

24 “(A) *The Director of the National Se-*
25 *curity Agency.*

1 ***“(B) The Director of the National Re-***
2 ***connaissance Office.***

3 ***“(C) The Director of the National***
4 ***Geospatial-Intelligence Agency.***

5 ***“(c) CONSULTATION WITH NATIONAL INTEL-***
6 ***LIGENCE DIRECTOR IN CERTAIN POSITIONS.—(1)***
7 ***In the event of a vacancy in a position referred***
8 ***to in paragraph (2), the head of the depart-***
9 ***ment or agency having jurisdiction over the***
10 ***position shall consult with the National Intel-***
11 ***ligence Director before appointing an indi-***
12 ***vidual to fill the vacancy or recommending to***
13 ***the President an individual to be nominated to***
14 ***fill the vacancy.***

15 ***“(2) Paragraph (1) applies to the following***
16 ***positions:***

17 ***“(A) The Director of the Defense Intel-***
18 ***ligence Agency.***

19 ***“(B) The Assistant Secretary of State***
20 ***for Intelligence and Research.***

21 ***“(C) The Director of the Office of Intel-***
22 ***ligence of the Department of Energy.***

23 ***“(D) The Director of the Office of***
24 ***counterintelligence of the Department of***
25 ***Energy.***

1 “(E) *The Assistant Secretary for Intel-*
2 *ligence and Analysis of the Department of*
3 *the Treasury.*

4 “(F) *The Executive Assistant Director*
5 *for Intelligence of the Federal Bureau of*
6 *Investigation.*

7 “(G) *The Under Secretary of Home-*
8 *land Security for Information Analysis*
9 *and Infrastructure Protection.*

10 “(H) *The Deputy Assistant Com-*
11 *mandant of the Coast Guard for Intel-*
12 *ligence.*

13 **SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL INTEL-**
14 **LIGENCE DIRECTOR.**

15 **(a) INITIAL APPOINTMENT OF THE NATIONAL**
16 **INTELLIGENCE DIRECTOR.—Notwithstanding**
17 **section 102(a)(1) of the National Security Act**
18 **of 1947, as added by section 1011(a), the indi-**
19 **vidual serving as the Director of Central Intel-**
20 **ligence on the date immediately preceding the**
21 **date of the enactment of this Act may, at the**
22 **discretion of the President, become the Na-**
23 **tional Intelligence Director as of the date of**
24 **the enactment of this Act.**

1 ***(b) GENERAL REFERENCES.—(1) Any ref-***
2 ***erence to the Director of Central Intelligence***
3 ***in the Director’s capacity as the head of the in-***
4 ***telligence community in any law, regulation,***
5 ***document, paper, or other record of the United***
6 ***States shall be deemed to be a reference to the***
7 ***National Intelligence Director.***

8 ***(2) Any reference to the Director of Central***
9 ***Intelligence in the Director’s capacity as the***
10 ***head of the Central Intelligence Agency in any***
11 ***law, regulation, document, paper, or other***
12 ***record of the United States shall be deemed to***
13 ***be a reference to the Director of the Central In-***
14 ***telligence Agency.***

15 ***(3) Any reference to the Deputy Director of***
16 ***Central Intelligence in the Deputy Director’s***
17 ***capacity as deputy to the head of the intel-***
18 ***ligence community in any law, regulation, doc-***
19 ***ument, paper, or other record of the United***
20 ***States shall be deemed to be a reference to the***
21 ***Deputy National Intelligence Director.***

22 ***(4) Any reference to the Deputy Director of***
23 ***Central Intelligence for Community Manage-***
24 ***ment in any law, regulation, document, paper,***
25 ***or other record of the United States shall be***

1 *deemed to be a reference to the Deputy Na-*
 2 *tional Intelligence Director for Community*
 3 *Management and Resources.*

4 *SEC. 1016. EXECUTIVE SCHEDULE MATTERS.*

5 (a) *EXECUTIVE SCHEDULE LEVEL I.—Section*
 6 *5312 of title 5, United States Code, is amended*
 7 *by adding the end the following new item:*

8 “*National Intelligence Director.*”

9 (b) *EXECUTIVE SCHEDULE LEVEL II.—Section*
 10 *5313 of title 5, United States Code, is amended*
 11 *by adding at the end the following new items:*

12 “*Deputy National Intelligence Direc-*
 13 *tor.*”

14 “*Director of the National counter-*
 15 *terrorism Center.*”

16 (c) *EXECUTIVE SCHEDULE LEVEL IV.—Sec-*
 17 *tion 5315 of title 5, United States Code, is*
 18 *amended by striking the item relating to the*
 19 *Assistant Directors of Central Intelligence.*

20 *Subtitle B—National counter-*
 21 *terrorism Center and Civil Lib-*
 22 *erties Protections*

23 *SEC. 1021. NATIONAL counterterrorism CENTER.*

24 (a) *IN GENERAL.—Title I of the National Se-*
 25 *curity Act of 1947 (50 U.S.C. 402 et seq.) is*

1 *amended by adding at the end the following*
2 *new section:*

3 *“NATIONAL COUNTERTERRORISM CENTER*

4 *“SEC. 119. (a) ESTABLISHMENT OF CENTER.—*

5 *There is within the Office of the National In-*
6 *telligence Director a National counter-*
7 *terrorism Center.*

8 *“(b) DIRECTOR OF NATIONAL COUNTER-*
9 *TERRORISM CENTER.—There is a Director of the*
10 *National counterterrorism Center, who shall*
11 *be the head of the National counterterrorism*
12 *Center, who shall be appointed by National In-*
13 *telligence Director.*

14 *“(c) SUPERVISION.—The Director of the Na-*
15 *tional counterterrorism Center shall report to*
16 *the National Intelligence Director on—*

17 *“(1) the budget and programs of the*
18 *National counterterrorism Center;*

19 *“(2) the activities of the Directorate of*
20 *Intelligence of the National counter-*
21 *terrorism Center under subsection (h);*

22 *“(3) the conduct of intelligence oper-*
23 *ations implemented by other elements of*
24 *the intelligence community; and*

1 “(4) *the planning and progress of*
2 *joint counterterrorism operations (other*
3 *than intelligence operations).*

4 *The National Intelligence Director shall carry*
5 *out this section through the Deputy National*
6 *Intelligence Director for Operations.*

7 “(d) *PRIMARY MISSIONS.—The primary mis-*
8 *sions of the National counterterrorism Center*
9 *shall be as follows:*

10 “(1) *To serve as the primary organiza-*
11 *tion in the United States Government for*
12 *analyzing and integrating all intelligence*
13 *possessed or acquired by the United States*
14 *Government pertaining to terrorism and*
15 *counterterrorism, excepting intelligence*
16 *pertaining exclusively to domestic*
17 *counterterrorism.*

18 “(2) *To conduct strategic operational*
19 *planning for counterterrorism activities,*
20 *integrating all instruments of national*
21 *power, including diplomatic, financial,*
22 *military, intelligence, homeland security,*
23 *and law enforcement activities within and*
24 *among agencies.*

1 “(3) *To support operational respon-*
2 *sibilities assigned to lead agencies for*
3 *counterterrorism activities by ensuring*
4 *that such agencies have access to and re-*
5 *ceive intelligence needed to accomplish*
6 *their assigned activities.*

7 “(4) *To ensure that agencies, as appro-*
8 *priate, have access to and receive all-*
9 *source intelligence support needed to exe-*
10 *cute their counterterrorism plans or per-*
11 *form independent, alternative analysis.*

12 “(e) *DOMESTIC COUNTERTERRORISM INTEL-*
13 *LIGENCE.—(1) The Center may, consistent with*
14 *applicable law, the direction of the President,*
15 *and the guidelines referred to in section*
16 *102A(b), receive intelligence pertaining exclu-*
17 *sively to domestic counterterrorism from any*
18 *Federal, State, or local government or other*
19 *source necessary to fulfill its responsibilities*
20 *and retain and disseminate such intelligence.*

21 “(2) *Any agency authorized to conduct*
22 *counterterrorism activities may request infor-*
23 *mation from the Center to assist it in its re-*
24 *sponsibilities, consistent with applicable law*

1 *and the guidelines referred to in section*
2 *102A(b).*

3 *“(f) DUTIES AND RESPONSIBILITIES OF DIREC-*
4 *TOR.—The Director of the National counter-*
5 *terrorism Center shall—*

6 *“(1) serve as the principal adviser to*
7 *the National Intelligence Director on in-*
8 *telligence operations relating to counter-*
9 *terrorism;*

10 *“(2) provide strategic guidance and*
11 *plans for the civilian and military*
12 *counterterrorism efforts of the United*
13 *States Government and for the effective*
14 *integration of counterterrorism intel-*
15 *ligence and operations across agency*
16 *boundaries, both inside and outside the*
17 *United States;*

18 *“(3) advise the National Intelligence*
19 *Director on the extent to which the*
20 *counterterrorism program recommenda-*
21 *tions and budget proposals of the depart-*
22 *ments, agencies, and elements of the*
23 *United States Government conform to the*
24 *priorities established by the President;*

1 “(4) *disseminate terrorism informa-*
2 *tion, including current terrorism threat*
3 *analysis, to the President, the Vice Presi-*
4 *dent, the Secretaries of State, Defense,*
5 *and Homeland Security, the Attorney Gen-*
6 *eral, the Director of the Central Intel-*
7 *ligence Agency, and other officials of the*
8 *executive branch as appropriate, and to*
9 *the appropriate committees of Congress;*

10 “(5) *support the Department of Justice*
11 *and the Department of Homeland Secu-*
12 *rity, and other appropriate agencies, in*
13 *fulfillment of their responsibilities to dis-*
14 *seminate terrorism information, con-*
15 *sistent with applicable law, Executive Or-*
16 *ders and other Presidential guidance, to*
17 *State and local government officials, and*
18 *other entities, and coordinate dissemina-*
19 *tion of terrorism information to foreign*
20 *governments as approved by the National*
21 *Intelligence Director;*

22 “(6) *consistent with priorities ap-*
23 *proved by the President, assist the Na-*
24 *tional Intelligence Director in estab-*
25 *lishing requirements for the intelligence*

1 *community for the collection of terrorism*
2 *information; and*

3 “(7) *perform such other duties as the*
4 *National Intelligence Director may pre-*
5 *scribe or are prescribed by law.*

6 “(g) *LIMITATION.—The Director of the Na-*
7 *tional counterterrorism Center may not direct*
8 *the execution of counterterrorism operations.*

9 “(h) *RESOLUTION OF DISPUTES.—The Na-*
10 *tional Intelligence Director shall resolve dis-*
11 *agreements between the National counter-*
12 *terrorism Center and the head of a depart-*
13 *ment, agency, or element of the United States*
14 *Government on designations, assignments,*
15 *plans, or responsibilities. The head of such a*
16 *department, agency, or element may appeal*
17 *the resolution of the disagreement by the Na-*
18 *tional Intelligence Director to the President.*

19 “(i) *DIRECTORATE OF INTELLIGENCE.—The*
20 *Director of the National counterterrorism Cen-*
21 *ter shall establish and maintain within the*
22 *National counterterrorism Center a Direc-*
23 *torate of Intelligence which shall have pri-*
24 *mary responsibility within the United States*
25 *Government for analysis of terrorism and ter-*

1 *rorist organizations (except for purely domes-*
 2 *tic terrorism and domestic terrorist organiza-*
 3 *tions) from all sources of intelligence, whether*
 4 *collected inside or outside the United States.*

5 “(j) *DIRECTORATE OF STRATEGIC PLAN-*
 6 *NING.—The Director of the National counter-*
 7 *terrorism Center shall establish and maintain*
 8 *within the National counterterrorism Center a*
 9 *Directorate of Strategic Planning which shall*
 10 *provide strategic guidance and plans for*
 11 *counterterrorism operations conducted by the*
 12 *United States Government.”.*

13 “(b) *CLERICAL AMENDMENT.—The table of*
 14 *sections for the National Security Act of 1947*
 15 *is amended by inserting after the item relating*
 16 *to section 118 the following new item:*

“Sec. 119. National counterterrorism Center.”.

17 *SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.*

18 “(a) *CIVIL LIBERTIES PROTECTION OFFICER.—*
 19 *(1) Within the Office of the National Intel-*
 20 *ligence Director, there is a Civil Liberties Pro-*
 21 *tection Officer who shall be appointed by the*
 22 *National Intelligence Director.*

23 “(2) *The Civil Liberties Protection Officer*
 24 *shall report directly to the National Intel-*
 25 *ligence Director.*

1 ***(b) DUTIES.—The Civil Liberties Protection***
2 ***Officer shall—***

3 ***(1) ensure that the protection of civil***
4 ***liberties and privacy is appropriately in-***
5 ***corporated in the policies and procedures***
6 ***developed for and implemented by the Of-***
7 ***fice of the National Intelligence Director***
8 ***and the elements of the intelligence com-***
9 ***munity within the National Intelligence***
10 ***Program;***

11 ***(2) oversee compliance by the Office***
12 ***and the National Intelligence Director***
13 ***with requirements under the Constitution***
14 ***and all laws, regulations, Executive or-***
15 ***ders, and implementing guidelines relat-***
16 ***ing to civil liberties and privacy;***

17 ***(3) review and assess complaints and***
18 ***other information indicating possible***
19 ***abuses of civil liberties and privacy in the***
20 ***administration of the programs and oper-***
21 ***ations of the Office and the National In-***
22 ***telligence Director and, as appropriate,***
23 ***investigate any such complaint or infor-***
24 ***mation;***

1 ***(4) ensure that the use of technologies***
2 ***sustain, and do not erode, privacy protec-***
3 ***tions relating to the use, collection, and***
4 ***disclosure of personal information;***

5 ***(5) ensure that personal information***
6 ***contained in a system of records subject to***
7 ***section 552a of title 5, United States Code***
8 ***(popularly referred to as the ‘Privacy***
9 ***Act’), is handled in full compliance with***
10 ***fair information practices as set out in***
11 ***that section;***

12 ***(6) conduct privacy impact assess-***
13 ***ments when appropriate or as required by***
14 ***law; and***

15 ***(7) perform such other duties as may***
16 ***be prescribed by the National Intelligence***
17 ***Director or specified by law.***

18 ***(c) USE OF AGENCY INSPECTORS GENERAL.—***
19 ***When appropriate, the Civil Liberties Protec-***
20 ***tion Officer may refer the Office of Inspector***
21 ***General having responsibility for the affected***
22 ***element of the department or agency of the in-***
23 ***telligence community to conduct an investiga-***
24 ***tion under paragraph (3) of subsection (b).***

1 ***Subtitle C—Joint Intelligence***
2 ***Community Council***

3 ***SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.***

4 ***(a) ESTABLISHMENT.—There is hereby estab-***
5 ***lished a Joint Intelligence Community Coun-***
6 ***cil.***

7 ***(b) FUNCTIONS.—(1) The Joint Intelligence***
8 ***Community Council shall provide advice to the***
9 ***National Intelligence Director as appropriate.***

10 ***(2) The National Intelligence Director***
11 ***shall consult with the Joint Intelligence Com-***
12 ***munity Council in developing guidance for the***
13 ***development of the annual National Intel-***
14 ***ligence Program budget.***

15 ***(c) MEMBERSHIP.—The Joint Intelligence***
16 ***Community Council shall consist of the fol-***
17 ***lowing:***

18 ***(1) The National Intelligence Director,***
19 ***who shall chair the Council.***

20 ***(2) The Secretary of State.***

21 ***(3) The Secretary of the Treasury.***

22 ***(4) The Secretary of Defense.***

23 ***(5) The Attorney General.***

24 ***(6) The Secretary of Energy.***

1 (7) *The Secretary of Homeland Secu-*
2 *rity.*

3 (8) *Such other officials of the execu-*
4 *tive branch as the President may des-*
5 *ignate.*

6 ***Subtitle D—Improvement of Human***
7 ***Intelligence (HUMINT)***

8 SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY
9 CRITICAL COMPONENT OF THE INTEL-
10 LIGENCE COMMUNITY.

11 *It is a sense of Congress that—*

12 (1) *the human intelligence officers of*
13 *the intelligence community have per-*
14 *formed admirably and honorably in the*
15 *face of great personal dangers;*

16 (2) *during an extended period of un-*
17 *precedented investment and improvements*
18 *in technical collection means, the human*
19 *intelligence capabilities of the United*
20 *States have not received the necessary*
21 *and commensurate priorities;*

22 (3) *human intelligence is becoming an*
23 *increasingly important capability to pro-*
24 *vide information on the asymmetric*

1 *threats to the national security of the*
2 *United States;*

3 *(4) the continued development and im-*
4 *provement of a robust and empowered*
5 *and flexible human intelligence work*
6 *force is critical to identifying, under-*
7 *standing, and countering the plans and*
8 *intentions of the adversaries of the United*
9 *States; and*

10 *(5) an increased emphasis on, and re-*
11 *sources applied to, enhancing the depth*
12 *and breadth of human intelligence capa-*
13 *bilities of the United States intelligence*
14 *community must be among the top prior-*
15 *ities of the National Intelligence Director.*

16 SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-
17 PACITY.

18 *Not later than 6 months after the date of*
19 *the enactment of this Act, the National Intel-*
20 *ligence Director shall submit to Congress a re-*
21 *port on existing human intelligence*
22 *(HUMINT) capacity which shall include a*
23 *plan to implement changes, as necessary, to*
24 *accelerate improvements to, and increase the*

1 *capacity of, HUMINT across the intelligence*
 2 *community.*

3 ***Subtitle E—Improvement of Edu-***
 4 ***cation for the Intelligence Com-***
 5 ***munity***

6 ***SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-***
 7 ***QUIREMENTS UNDER NATIONAL SECURITY***
 8 ***EDUCATION PROGRAM.***

9 ***(a) IN GENERAL.—(1) Subsection (b)(2) of***
 10 ***section 802 of the David L. Boren National Se-***
 11 ***curity Education Act of 1991 (50 U.S.C. 1902)***
 12 ***is amended to read as follows:***

13 ***“(2) will meet the requirements for ob-***
 14 ***ligated service described in subsection (j);***
 15 ***and”.***

16 ***(2) Such section is further amended by***
 17 ***adding at the end the following new sub-***
 18 ***section:***

19 ***“(j) REQUIREMENTS FOR OBLIGATED SERVICE***
 20 ***IN THE GOVERNMENT.—(1) Each recipient of a***
 21 ***scholarship or a fellowship under the program***
 22 ***shall work in a specified national security po-***
 23 ***sition. In this subsection, the term ‘specified***
 24 ***national security position’ means a position of***
 25 ***a department or agency of the United States***

1 *that the Secretary certifies is appropriate to*
2 *use the unique language and region expertise*
3 *acquired by the recipient pursuant to the*
4 *study for which scholarship or fellowship as-*
5 *sistance (as the case may be) was provided*
6 *under the program.*

7 “(2) *Each such recipient shall commence*
8 *work in a specified national security position*
9 *as soon as practicable but in no case later*
10 *than two years after the completion by the re-*
11 *cipient of the study for which scholarship or*
12 *fellowship assistance (as the case may be) was*
13 *provided under the program.*

14 “(3) *Each such recipient shall work in a*
15 *specified national security position for a pe-*
16 *riod specified by the Secretary, which period*
17 *shall include—*

18 “(A) *in the case of a recipient of a*
19 *scholarship, one year of service for each*
20 *year, or portion thereof, for which such*
21 *scholarship assistance was provided, and*

22 “(B) *in the case of a recipient of a fel-*
23 *lowship, not less than one nor more than*
24 *three years for each year, or portion there-*

1 *of, for which such fellowship assistance*
2 *was provided.*

3 *“(4) Recipients shall seek specified na-*
4 *tional security positions as follows:*

5 *“(A) In the Department of Defense or*
6 *in any element of the intelligence commu-*
7 *nity.*

8 *“(B) In the Department of State or in*
9 *the Department of Homeland Security, if*
10 *the recipient demonstrates to the Sec-*
11 *retary that no position is available in the*
12 *Department of Defense or in any element*
13 *of the intelligence community.*

14 *“(C) In any other Federal department*
15 *or agency not referred to in subpara-*
16 *graphs (A) and (B), if the recipient dem-*
17 *onstrates to the Secretary that no position*
18 *is available in a Federal department or*
19 *agency specified in such paragraphs.”.*

20 *(b) REGULATIONS.—The Secretary of De-*
21 *fense shall prescribe regulations to carry out*
22 *subsection (j) of section 802 of the David L.*
23 *Boren National Security Education Act of*
24 *1991, as added by subsection (a). In pre-*
25 *scribing such regulations, the Secretary shall*

1 *establish standards that recipients of scholar-*
2 *ship and fellowship assistance under the pro-*
3 *gram under section 802 of the David L. Boren*
4 *National Security Education Act of 1991 are*
5 *required to demonstrate in order to satisfy the*
6 *requirement of a good faith effort to gain em-*
7 *ployment as required under such subsection.*

8 **(c) APPLICABILITY.—(1) The amendments**
9 *made by subsection (a) shall apply with re-*
10 *spect to service agreements entered into under*
11 *the David L. Boren National Security Edu-*
12 *cation Act of 1991 on or after the date of the*
13 *enactment of this Act.*

14 **(2) The amendments made by subsection**
15 *(a) shall not affect the force, validity, or terms*
16 *of any service agreement entered into under*
17 *the David L. Boren National Security Edu-*
18 *cation Act of 1991 before the date of the enact-*
19 *ment of this Act that is in force as of that date.*

20 **SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP**
21 **LANGUAGE INITIATIVE.**

22 **(a) INCREASE IN ANNUAL AUTHORIZATION OF**
23 **APPROPRIATIONS.—(1) Title VIII of the Intel-**
24 **ligence Authorization Act for Fiscal Year 1992**
25 **(Public Law 102–183; 105 Stat. 1271), as**

1 *amended by section 311(c) of the Intelligence*
2 *Authorization Act for Fiscal Year 1994 (Public*
3 *Law 103–178; 107 Stat. 2037) and by section*
4 *333(b) of the Intelligence Authorization Act for*
5 *Fiscal Year 2003 (Public Law 107–306; 116*
6 *Stat. 2397), is amended in subsection (a) of sec-*
7 *tion 811 by striking “there is authorized to be*
8 *appropriated to the Secretary for each fiscal*
9 *year, beginning with fiscal year 2003,*
10 *\$10,000,000,” and inserting “there is author-*
11 *ized to be appropriated to the Secretary for*
12 *each of fiscal years 2003 and 2004, \$10,000,000,*
13 *and for fiscal year 2005 and each subsequent*
14 *fiscal year, \$12,000,000,”.*

15 (2) *Subsection (b) of such section is amend-*
16 *ed by inserting “for fiscal years 2003 and 2004*
17 *only” after “authorization of appropriations*
18 *under subsection (a)”.*

19 (b) *REQUIREMENT FOR EMPLOYMENT AGREE-*
20 *MENTS.—(1) Section 802(i) of the David L.*
21 *Boren National Security Education Act of 1991*
22 *(50 U.S.C. 1902(i)) is amended by adding at the*
23 *end the following new paragraph:*

24 “(5)(A) *In the case of an undergraduate or*
25 *graduate student that participates in training*

1 *in programs under paragraph (1), the student*
2 *shall enter into an agreement described in*
3 *subsection (b), other than such a student who*
4 *has entered into such an agreement pursuant*
5 *to subparagraph (A)(ii) or (B)(ii) of section*
6 *802(a)(1).*

7 *“(B) In the case of an employee of an agen-*
8 *cy or department of the Federal Government*
9 *that participates in training in programs*
10 *under paragraph (1), the employee shall agree*
11 *in writing—*

12 *“(i) to continue in the service of the*
13 *agency or department of the Federal Gov-*
14 *ernment employing the employee for the*
15 *period of such training;*

16 *“(ii) to continue in the service of such*
17 *agency or department employing the em-*
18 *ployee following completion of such train-*
19 *ing for a period of two years for each year,*
20 *or part of the year, of such training;*

21 *“(iii) to reimburse the United States*
22 *for the total cost of such training (exclud-*
23 *ing the employee’s pay and allowances)*
24 *provided to the employee if, before the*
25 *completion by the employee of the train-*

1 *ing, the employment of the employee by the*
2 *agency or department is terminated due*
3 *to misconduct by the employee or by the*
4 *employee voluntarily; and*

5 *“(iv) to reimburse the United States if,*
6 *after completing such training, the em-*
7 *ployment of the employee by the agency or*
8 *department is terminated either by the*
9 *agency or department due to misconduct*
10 *by the employee or by the employee volun-*
11 *tarily, before the completion by the em-*
12 *ployee of the period of service required in*
13 *clause (ii), in an amount that bears the*
14 *same ratio to the total cost of the training*
15 *(excluding the employee’s pay and allow-*
16 *ances) provided to the employee as the*
17 *unserved portion of such period of service*
18 *bears to the total period of service under*
19 *clause (ii).*

20 *“(C) Subject to subparagraph (D), the obli-*
21 *gation to reimburse the United States under*
22 *an agreement under subparagraph (A) is for*
23 *all purposes a debt owing the United States.*

24 *“(D) The head of an element of the intel-*
25 *ligence community may release an employee,*

1 *in whole or in part, from the obligation to re-*
2 *imburse the United States under an agreement*
3 *under subparagraph (A) when, in the discre-*
4 *tion of the head of the element, the head of the*
5 *element determines that equity or the interests*
6 *of the United States so require.”.*

7 **(2) The amendment made by paragraph (1)**
8 *shall apply to training that begins on or after*
9 *the date that is 90 days after the date of the*
10 *enactment of this Act.*

11 **(c) INCREASE IN THE NUMBER OF PARTICI-**
12 *PATING EDUCATIONAL INSTITUTIONS.—The Sec-*
13 *retary of Defense shall take such steps as the*
14 *Secretary determines will increase the number*
15 *of qualified educational institutions that re-*
16 *ceive grants under the National Flagship Lan-*
17 *guage Initiative to establish, operate, or im-*
18 *prove activities designed to train students in*
19 *programs in a range of disciplines to achieve*
20 *advanced levels of proficiency in those foreign*
21 *languages that the Secretary identifies as*
22 *being the most critical in the interests of the*
23 *national security of the United States.*

24 **(d) CLARIFICATION OF AUTHORITY TO SUP-**
25 *PORT STUDIES ABROAD.—Educational institu-*

1 *tions that receive grants under the National*
 2 *Flagship Language Initiative may support stu-*
 3 *dents who pursue total immersion foreign lan-*
 4 *guage studies overseas of foreign languages*
 5 *that are critical to the national security of the*
 6 *United States.*

7 *SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM*
 8 *FOR ENGLISH LANGUAGE STUDIES FOR HER-*
 9 *ITAGE COMMUNITY CITIZENS OF THE UNITED*
 10 *STATES WITHIN THE NATIONAL SECURITY*
 11 *EDUCATION PROGRAM.*

12 *(a) SCHOLARSHIP PROGRAM FOR ENGLISH*
 13 *LANGUAGE STUDIES FOR HERITAGE COMMUNITY*
 14 *CITIZENS OF THE UNITED STATES.—(1) Sub-*
 15 *section (a)(1) of section 802 of the David L.*
 16 *Boren National Security Education Act of 1991*
 17 *(50 U.S.C. 1902) is amended—*

18 *(A) by striking “and” at the end of*
 19 *subparagraph (C);*

20 *(B) by striking the period at the end of*
 21 *subparagraph (D) and inserting “; and”;*
 22 *and*

23 *(C) by adding at the end the following*
 24 *new subparagraph:*

1 ***“(E) awarding scholarships to stu-***
2 ***dents who—***

3 ***“(i) are United States citizens***
4 ***who—***

5 ***“(I) are native speakers***
6 ***(commonly referred to as her-***
7 ***itage community residents) of***
8 ***a foreign language that is***
9 ***identified as critical to the na-***
10 ***tional security interests of the***
11 ***United States who should be***
12 ***actively recruited for employ-***
13 ***ment by Federal security agen-***
14 ***cies with a need for linguists;***
15 ***and***

16 ***“(II) are not proficient at***
17 ***a professional level in the***
18 ***English language with respect***
19 ***to reading, writing, and inter-***
20 ***personal skills required to***
21 ***carry out the national security***
22 ***interests of the United States,***
23 ***as determined by the Sec-***
24 ***retary,***

1 *to enable such students to pursue*
2 *English language studies at an in-*
3 *stitution of higher education of*
4 *the United States to attain pro-*
5 *ficiency in those skills; and*

6 *“(ii) enter into an agreement*
7 *to work in a national security po-*
8 *sition or work in the field of edu-*
9 *cation in the area of study for*
10 *which the scholarship was award-*
11 *ed in a similar manner (as deter-*
12 *mined by the Secretary) as agree-*
13 *ments entered into pursuant to*
14 *subsection (b)(2)(A).”.*

15 *(2) The matter following subsection (a)(2)*
16 *of such section is amended—*

17 *(A) in the first sentence, by inserting*
18 *“or for the scholarship program under*
19 *paragraph (1)(E)” after “under para-*
20 *graph (1)(D) for the National Flagship*
21 *Language Initiative described in sub-*
22 *section (i)”;* and

23 *(B) by adding at the end the following:*
24 *“For the authorization of appropriations*

1 *for the scholarship program under para-*
 2 *graph (1)(E), see section 812.”.*

3 **(3) Section 803(d)(4)(E) of such Act (50**
 4 ***U.S.C. 1903(d)(4)(E)) is amended by inserting***
 5 ***before the period the following: “and section***
 6 ***802(a)(1)(E) (relating to scholarship programs***
 7 ***for advanced English language studies by her-***
 8 ***itage community residents)”.***

9 **(b) FUNDING.—The David L. Boren Na-**
 10 ***tional Security Education Act of 1991 (50***
 11 ***U.S.C. 1901 et seq.) is amended by adding at***
 12 ***the end the following new section:***

13 ***“SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR***
 14 ***CERTAIN HERITAGE COMMUNITY RESIDENTS.***

15 ***“There is authorized to be appropriated to***
 16 ***the Secretary for each fiscal year, beginning***
 17 ***with fiscal year 2005, \$4,000,000, to carry out***
 18 ***the scholarship programs for English lan-***
 19 ***guage studies by certain heritage community***
 20 ***residents under section 802(a)(1)(E).”.***

21 ***SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-***
 22 ***GUAGE AND EDUCATION FOR THE INTEL-***
 23 ***LIGENCE COMMUNITY; REPORTS.***

24 **(a) SENSE OF CONGRESS.—It is the sense of**
 25 ***Congress that there should be within the Of-***

1 *office of the National Intelligence Director a*
2 *senior official responsible to assist the Na-*
3 *tional Intelligence Director in carrying out the*
4 *Director's responsibilities for establishing*
5 *policies and procedure for foreign language*
6 *education and training of the intelligence*
7 *community. The duties of such official should*
8 *include the following:*

9 (1) *Overseeing and coordinating re-*
10 *quirements for foreign language edu-*
11 *cation and training of the intelligence*
12 *community.*

13 (2) *Establishing policy, standards,*
14 *and priorities relating to such require-*
15 *ments.*

16 (3) *Identifying languages that are*
17 *critical to the capability of the intel-*
18 *ligence community to carry out national*
19 *security activities of the United States.*

20 (4) *Monitoring the allocation of re-*
21 *sources for foreign language education*
22 *and training in order to ensure the re-*
23 *quirements of the intelligence community*
24 *with respect to foreign language pro-*
25 *iciency are met.*

1 ***(b) REPORTS.—Not later than one year***
2 ***after the date of the enactment of this Act, the***
3 ***National Intelligence Director shall submit to***
4 ***Congress the following reports:***

5 ***(1) A report that identifies—***

6 ***(A) skills and processes involved***
7 ***in learning a foreign language; and***

8 ***(B) characteristics and teaching***
9 ***techniques that are most effective in***
10 ***teaching foreign languages.***

11 ***(2)(A) A report that identifies foreign***
12 ***language heritage communities, particu-***
13 ***larly such communities that include***
14 ***speakers of languages that are critical to***
15 ***the national security of the United States.***

16 ***(B) For purposes of subparagraph (A),***
17 ***the term “foreign language heritage com-***
18 ***munity” means a community of residents***
19 ***or citizens of the United States—***

20 ***(i) who are native speakers of, or***
21 ***who have fluency in, a foreign lan-***
22 ***guage; and***

23 ***(ii) who should be actively re-***
24 ***cruited for employment by Federal se-***

1 *curity agencies with a need for lin-*
2 *guists.*

3 *(3) A report on—*

4 *(A) the estimated cost of estab-*
5 *lishing a program under which the*
6 *heads of elements of the intelligence*
7 *community agree to repay employees*
8 *of the intelligence community for any*
9 *student loan taken out by that em-*
10 *ployee for the study of foreign lan-*
11 *guages critical for the national secu-*
12 *rity of the United States; and*

13 *(B) the effectiveness of such a pro-*
14 *gram in recruiting and retaining*
15 *highly qualified personnel in the in-*
16 *telligence community.*

17 *SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-*
18 *ICAL TO THE INTELLIGENCE COMMUNITY.*

19 *(a) IN GENERAL.—Title X of the National*
20 *Security Act of 1947 (50 U.S.C.) is amended—*

21 *(1) by inserting before section 1001 (50*
22 *U.S.C. 441g) the following:*

23 *“Subtitle A—Science and*
24 *Technology”;*

25 *and*

1 (2) *by adding at the end the following*
2 *new subtitles:*

3 ***“Subtitle B—Foreign Languages***
4 ***Program***

5 ***“PROGRAM ON ADVANCEMENT OF FOREIGN LAN-***
6 ***GUAGES CRITICAL TO THE INTELLIGENCE COM-***
7 ***MUNITY***

8 ***“SEC. 1011. (a) ESTABLISHMENT OF PRO-***
9 ***GRAM.—The Secretary of Defense and the Na-***
10 ***tional Intelligence Director may jointly estab-***
11 ***lish a program to advance foreign languages***
12 ***skills in languages that are critical to the ca-***
13 ***pability of the intelligence community to carry***
14 ***out national security activities of the United***
15 ***States (hereinafter in this subtitle referred to***
16 ***as the ‘Foreign Languages Program’).***

17 ***“(b) IDENTIFICATION OF REQUISITE AC-***
18 ***TIONS.—In order to carry out the Foreign Lan-***
19 ***guages Program, the Secretary of Defense and***
20 ***the National Intelligence Director shall jointly***
21 ***determine actions required to improve the edu-***
22 ***cation of personnel in the intelligence commu-***
23 ***nity in foreign languages that are critical to***
24 ***the capability of the intelligence community to***
25 ***carry out national security activities of the***

1 *United States to meet the long-term intel-*
2 *ligence needs of the United States.*

3 *“EDUCATION PARTNERSHIPS*

4 *“SEC. 1012. (a) IN GENERAL.—In carrying*
5 *out the Foreign Languages Program, the head*
6 *of a department or agency containing an ele-*
7 *ment of an intelligence community entity may*
8 *enter into one or more education partnership*
9 *agreements with educational institutions in*
10 *the United States in order to encourage and*
11 *enhance the study of foreign languages that*
12 *are critical to the capability of the intelligence*
13 *community to carry out national security ac-*
14 *tivities of the United States in educational in-*
15 *stitutions.*

16 *“(b) ASSISTANCE PROVIDED UNDER EDU-*
17 *CATIONAL PARTNERSHIP AGREEMENTS.—Under*
18 *an educational partnership agreement en-*
19 *tered into with an educational institution pur-*
20 *suant to this section, the head of an element*
21 *of an intelligence community entity may pro-*
22 *vide the following assistance to the edu-*
23 *cational institution:*

24 *“(1) The loan of equipment and in-*
25 *structional materials of the element of the*
26 *intelligence community entity to the edu-*

1 *cational institution for any purpose and*
2 *duration that the head determines to be*
3 *appropriate.*

4 *“(2) Notwithstanding any other provi-*
5 *sion of law relating to transfers of surplus*
6 *property, the transfer to the educational*
7 *institution of any computer equipment, or*
8 *other equipment, that is—*

9 *“(A) commonly used by edu-*
10 *cational institutions;*

11 *“(B) surplus to the needs of the en-*
12 *tity; and*

13 *“(C) determined by the head of the*
14 *element to be appropriate for support*
15 *of such agreement.*

16 *“(3) The provision of dedicated per-*
17 *sonnel to the educational institution—*

18 *“(A) to teach courses in foreign*
19 *languages that are critical to the ca-*
20 *pability of the intelligence community*
21 *to carry out national security activi-*
22 *ties of the United States; or*

23 *“(B) to assist in the development*
24 *of such courses and materials for the*
25 *institution.*

1 “(4) *The involvement of faculty and*
2 *students of the educational institution in*
3 *research projects of the element of the in-*
4 *telligence community entity.*

5 “(5) *Cooperation with the educational*
6 *institution in developing a program under*
7 *which students receive academic credit at*
8 *the educational institution for work on re-*
9 *search projects of the element of the intel-*
10 *ligence community entity.*

11 “(6) *The provision of academic and*
12 *career advice and assistance to students*
13 *of the educational institution.*

14 “(7) *The provision of cash awards and*
15 *other items that the head of the element of*
16 *the intelligence community entity deter-*
17 *mines to be appropriate.*

18 “VOLUNTARY SERVICES

19 “SEC. 1013. (a) *AUTHORITY TO ACCEPT SERV-*
20 *ICES.—Notwithstanding section 1342 of title 31,*
21 *United States Code, and subject to subsection*
22 *(b), the Foreign Languages Program under*
23 *section 1011 shall include authority for the*
24 *head of an element of an intelligence commu-*
25 *nity entity to accept from any individual who*
26 *is dedicated personnel (as defined in section*

1 *1016(3)) voluntary services in support of the*
2 *activities authorized by this subtitle.*

3 *“(b) REQUIREMENTS AND LIMITATIONS.—(1)*
4 *In accepting voluntary services from an indi-*
5 *vidual under subsection (a), the head of the*
6 *element shall—*

7 *“(A) supervise the individual to the*
8 *same extent as the head of the element*
9 *would supervise a compensated employee*
10 *of that element providing similar services;*
11 *and*

12 *“(B) ensure that the individual is li-*
13 *censed, privileged, has appropriate edu-*
14 *cational or experiential credentials, or is*
15 *otherwise qualified under applicable law*
16 *or regulations to provide such services.*

17 *“(2) In accepting voluntary services from*
18 *an individual under subsection (a), the head*
19 *of an element of the intelligence community*
20 *entity may not—*

21 *“(A) place the individual in a policy-*
22 *making position, or other position per-*
23 *forming inherently government functions;*
24 *or*

1 ***“(B) compensate the individual for the***
2 ***provision of such services.***

3 ***“(c) AUTHORITY TO RECRUIT AND TRAIN IN-***
4 ***DIVIDUALS PROVIDING SERVICES.—The head of***
5 ***an element of an intelligence community entity***
6 ***may recruit and train individuals to provide***
7 ***voluntary services accepted under subsection***
8 ***(a).***

9 ***“(d) STATUS OF INDIVIDUALS PROVIDING***
10 ***SERVICES.—(1) Subject to paragraph (2), while***
11 ***providing voluntary services accepted under***
12 ***subsection (a) or receiving training under sub-***
13 ***section (c), an individual shall be considered***
14 ***to be an employee of the Federal Government***
15 ***only for purposes of the following provisions of***
16 ***law:***

17 ***“(A) Section 552a of title 5, United***
18 ***States Code (relating to maintenance of***
19 ***records on individuals).***

20 ***“(B) Chapter 11 of title 18, United***
21 ***States Code (relating to conflicts of inter-***
22 ***est).***

23 ***“(2)(A) With respect to voluntary services***
24 ***accepted under paragraph (1) provided by an***
25 ***individual that are within the scope of the***

1 *services so accepted, the individual is deemed*
2 *to be a volunteer of a governmental entity or*
3 *nonprofit institution for purposes of the Vol-*
4 *unteer Protection Act of 1997 (42 U.S.C. 14501*
5 *et seq.).*

6 *“(B) In the case of any claim against such*
7 *an individual with respect to the provision of*
8 *such services, section 4(d) of such Act (42*
9 *U.S.C. 14503(d)) shall not apply.*

10 *“(3) Acceptance of voluntary services*
11 *under this section shall have no bearing on the*
12 *issuance or renewal of a security clearance.*

13 *“(e) REIMBURSEMENT OF INCIDENTAL EX-*
14 *PENSES.—(1) The head of an element of the in-*
15 *telligence community entity may reimburse an*
16 *individual for incidental expenses incurred by*
17 *the individual in providing voluntary services*
18 *accepted under subsection (a). The head of an*
19 *element of the intelligence community entity*
20 *shall determine which expenses are eligible for*
21 *reimbursement under this subsection.*

22 *“(2) Reimbursement under paragraph (1)*
23 *may be made from appropriated or non-*
24 *appropriated funds.*

1 “(f) **AUTHORITY TO INSTALL EQUIPMENT.—(1)**
2 *The head of an element of the intelligence com-*
3 *munity may install telephone lines and any*
4 *necessary telecommunication equipment in the*
5 *private residences of individuals who provide*
6 *voluntary services accepted under subsection*
7 *(a).*

8 “(2) *The head of an element of the intel-*
9 *ligence community may pay the charges in-*
10 *curred for the use of equipment installed*
11 *under paragraph (1) for authorized purposes.*

12 “(3) *Notwithstanding section 1348 of title*
13 *31, United States Code, the head of an element*
14 *of the intelligence community entity may use*
15 *appropriated funds or nonappropriated funds*
16 *of the element in carrying out this subsection.*

17 “REGULATIONS

18 “SEC. 1014. (a) **IN GENERAL.—***The Secretary*
19 *of Defense and the National Intelligence Di-*
20 *rector jointly shall promulgate regulations*
21 *necessary to carry out the Foreign Languages*
22 *Program authorized under this subtitle.*

23 “(b) **ELEMENTS OF THE INTELLIGENCE COM-**
24 **MUNITY.—***Each head of an element of an intel-*
25 *ligence community entity shall prescribe regu-*
26 *lations to carry out sections 1012 and 1013*

1 *with respect to that element including the fol-*
 2 *lowing:*

3 “(1) *Procedures to be utilized for the*
 4 *acceptance of voluntary services under*
 5 *section 1013.*

6 “(2) *Procedures and requirements re-*
 7 *lating to the installation of equipment*
 8 *under section 1013(g).*

9 “*DEFINITIONS*

10 “*SEC. 1015. In this subtitle:*

11 “(1) *The term ‘intelligence community*
 12 *entity’ means an agency, office, bureau, or*
 13 *element referred to in subparagraphs (B)*
 14 *through (K) of section 3(4).*

15 “(2) *The term ‘educational institution’*
 16 *means—*

17 “(A) *a local educational agency*
 18 *(as that term is defined in section*
 19 *9101(26) of the Elementary and Sec-*
 20 *ondary Education Act of 1965 (20*
 21 *U.S.C. 7801(26))),*

22 “(B) *an institution of higher edu-*
 23 *cation (as defined in section 102 of the*
 24 *Higher Education Act of 1965 (20*
 25 *U.S.C. 1002) other than institutions re-*

1 *ferred to in subsection (a)(1)(C) of*
2 *such section), or*

3 *“(C) any other nonprofit institu-*
4 *tion that provides instruction of for-*
5 *ign languages in languages that are*
6 *critical to the capability of the intel-*
7 *ligence community to carry out na-*
8 *tional security activities of the United*
9 *States.*

10 *“(3) The term ‘dedicated personnel’*
11 *means employees of the intelligence com-*
12 *munity and private citizens (including*
13 *former civilian employees of the Federal*
14 *Government who have been voluntarily*
15 *separated, and members of the United*
16 *States Armed Forces who have been hon-*
17 *orably discharged or generally discharged*
18 *under honorable circumstances, and re-*
19 *hired on a voluntary basis specifically to*
20 *perform the activities authorized under*
21 *this subtitle).*

1 ***“Subtitle C—Additional Education***
2 ***Provisions***

3 ***“ASSIGNMENT OF INTELLIGENCE COMMUNITY***
4 ***PERSONNEL AS LANGUAGE STUDENTS***

5 ***“SEC. 1021. (a) IN GENERAL.—(1) The Na-***
6 ***tional Intelligence Director, acting through***
7 ***the heads of the elements of the intelligence***
8 ***community, may provide for the assignment of***
9 ***military and civilian personnel described in***
10 ***paragraph (2) as students at accredited pro-***
11 ***fessional, technical, or other institutions of***
12 ***higher education for training at the graduate***
13 ***or undergraduate level in foreign languages***
14 ***required for the conduct of duties and respon-***
15 ***sibilities of such positions.***

16 ***“(2) Personnel referred to in paragraph (1)***
17 ***are personnel of the elements of the intel-***
18 ***ligence community who serve in analysts posi-***
19 ***tions in such elements and who require foreign***
20 ***language expertise required for the conduct of***
21 ***duties and responsibilities of such positions.***

22 ***“(b) AUTHORITY FOR REIMBURSEMENT OF***
23 ***COSTS OF TUITION AND TRAINING.—(1) The Di-***
24 ***rector may reimburse an employee assigned***
25 ***under subsection (a) for the total cost of the***

1 *training described in subsection (a), including*
 2 *costs of educational and supplementary read-*
 3 *ing materials.*

4 “(2) *The authority under paragraph (1)*
 5 *shall apply to employees who are assigned on*
 6 *a full-time or part-time basis.*

7 “(3) *Reimbursement under paragraph (1)*
 8 *may be made from appropriated or non-*
 9 *appropriated funds.*

10 “(c) *RELATIONSHIP TO COMPENSATION AS AN*
 11 *ANALYST.—Reimbursement under this section*
 12 *to an employee who is an analyst is in addition*
 13 *to any benefits, allowances, travels, or other*
 14 *compensation the employee is entitled to by*
 15 *reason of serving in such an analyst position.”.*

16 (b) *CLERICAL AMENDMENT.—The table of*
 17 *contents for the National Security Act of 1947*
 18 *is amended by striking the item relating to sec-*
 19 *tion 1001 and inserting the following new*
 20 *items:*

“Subtitle A—Science and Technology

“Sec. 1001. Scholarships and work-study for pursuit of grad-
uate degrees in science and technology.

“Subtitle B—Foreign Languages Program

“Sec. 1011. Program on advancement of foreign languages crit-
ical to the intelligence community.

“Sec. 1012. Education partnerships.

“Sec. 1013. Voluntary services.

“Sec. 1014. Regulations.

“Sec. 1015. Definitions.

“Subtitle C—Additional Education Provisions

“Sec. 1021. Assignment of intelligence community personnel as language students.”.

1 *SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-*
2 *SERVE CORPS.*

3 *(a) PILOT PROJECT.—The National Intel-*
4 *ligence Director shall conduct a pilot project*
5 *to establish a Civilian Linguist Reserve Corps*
6 *comprised of United States citizens with ad-*
7 *vanced levels of proficiency in foreign lan-*
8 *guages who would be available upon a call of*
9 *the President to perform such service or duties*
10 *with respect to such foreign languages in the*
11 *Federal Government as the President may*
12 *specify.*

13 *(b) CONDUCT OF PROJECT.—Taking into ac-*
14 *count the findings and recommendations con-*
15 *tained in the report required under section 325*
16 *of the Intelligence Authorization Act for Fiscal*
17 *Year 2003 (Public Law 107–306; 116 Stat. 2393),*
18 *in conducting the pilot project under sub-*
19 *section (a) the National Intelligence Director*
20 *shall—*

21 *(1) identify several foreign languages*
22 *that are critical for the national security*
23 *of the United States;*

1 ***(2) identify United States citizens with***
2 ***advanced levels of proficiency in those***
3 ***foreign languages who would be available***
4 ***to perform the services and duties re-***
5 ***ferred to in subsection (a); and***

6 ***(3) implement a call for the perform-***
7 ***ance of such services and duties.***

8 ***(c) DURATION OF PROJECT.—The pilot***
9 ***project under subsection (a) shall be con-***
10 ***ducted for a three-year period.***

11 ***(d) AUTHORITY TO ENTER INTO CON-***
12 ***TRACTS.—The National Intelligence Director***
13 ***may enter into contracts with appropriate***
14 ***agencies or entities to carry out the pilot***
15 ***project under subsection (a).***

16 ***(e) REPORTS.—(1) The National Intel-***
17 ***ligence Director shall submit to Congress an***
18 ***initial and a final report on the pilot project***
19 ***conducted under subsection (a).***

20 ***(2) Each report required under paragraph***
21 ***(1) shall contain information on the operation***
22 ***of the pilot project, the success of the pilot***
23 ***project in carrying out the objectives of the es-***
24 ***tablishment of a Civilian Linguist Reserve***

1 *Corps, and recommendations for the continu-*
 2 *ation or expansion of the pilot project.*

3 *(3) The final report shall be submitted not*
 4 *later than 6 months after the completion of the*
 5 *project.*

6 *(f) AUTHORIZATION OF APPROPRIATIONS.—*
 7 *There are authorized to be appropriated to the*
 8 *National Intelligence Director such sums as*
 9 *are necessary for each of fiscal years 2005,*
 10 *2006, and 2007 in order to carry out the pilot*
 11 *project under subsection (a).*

12 *SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NA-*
 13 *TIONAL VIRTUAL TRANSLATION CENTER.*

14 *(a) IN GENERAL.—Title I of the National Se-*
 15 *curity Act of 1947 (50 U.S.C. 402 et seq.), as*
 16 *amended by section 1021(a), is further amend-*
 17 *ed by adding at the end the following new sec-*
 18 *tion:*

19 *“NATIONAL VIRTUAL TRANSLATION CENTER*

20 *“SEC. 120. (a) IN GENERAL.—There is an ele-*
 21 *ment of the intelligence community known as*
 22 *the National Virtual Translation Center*
 23 *under the direction of the National Intel-*
 24 *ligence Director.*

25 *“(b) FUNCTION.—The National Virtual*
 26 *Translation Center shall provide for timely*

1 *and accurate translations of foreign intel-*
2 *ligence for all other elements of the intel-*
3 *ligence community.*

4 “(c) *FACILITATING ACCESS TO TRANS-*
5 *LATIONS.—In order to minimize the need for a*
6 *central facility for the National Virtual Trans-*
7 *lation Center, the Center shall—*

8 “(1) *use state-of-the-art communica-*
9 *tions technology;*

10 “(2) *integrate existing translation ca-*
11 *pabilities in the intelligence community;*
12 *and*

13 “(3) *use remote-connection capacities.*

14 “(d) *USE OF SECURE FACILITIES.—Personnel*
15 *of the National Virtual Translation Center*
16 *may carry out duties of the Center at any loca-*
17 *tion that—*

18 “(1) *has been certified as a secure fa-*
19 *cility by an agency or department of the*
20 *United States; and*

21 “(2) *the National Intelligence Director*
22 *determines to be appropriate for such pur-*
23 *pose.”.*

24 “(b) *CLERICAL AMENDMENT.—The table of*
25 *sections for that Act, as amended by section*

1 *1021(b), is further amended by inserting after*
2 *the item relating to section 119 the following*
3 *new item:*

“Sec. 120. National Virtual Translation Center.”.

4 *SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF*
5 *QUALIFIED INSTRUCTORS OF THE DEFENSE*
6 *LANGUAGE INSTITUTE.*

7 *(a) STUDY.—The Secretary of Defense shall*
8 *conduct a study on methods to improve the re-*
9 *cruitment and retention of qualified foreign*
10 *language instructors at the Foreign Language*
11 *Center of the Defense Language Institute. In*
12 *conducting the study, the Secretary shall con-*
13 *sider, in the case of a foreign language in-*
14 *structor who is an alien, to expeditiously ad-*
15 *just the status of the alien from a temporary*
16 *status to that of an alien lawfully admitted for*
17 *permanent residence.*

18 *(b) REPORT.—(1) Not later than one year*
19 *after the date of the enactment of this Act, the*
20 *Secretary of Defense shall submit to the appro-*
21 *priate congressional committees a report on*
22 *the study conducted under subsection (a), and*
23 *shall include in that report recommendations*
24 *for such changes in legislation and regulation*
25 *as the Secretary determines to be appropriate.*

1 **(2) DEFINITION.—***In this subsection, the*
 2 *term “appropriate congressional committees”*
 3 *means the following:*

4 **(A) The Select Committee on Intel-**
 5 *ligence and the Committee on Armed Serv-*
 6 *ices of the Senate.*

7 **(B) The Permanent Select Committee**
 8 *on Intelligence and the Committee on*
 9 *Armed Services of the House of Represent-*
 10 *atives.*

11 **Subtitle F—Additional Improve-**
 12 **ments of Intelligence Activities**

13 **SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-**
 14 **LIGENCE AGENCY VOLUNTARY SEPARATION**
 15 **INCENTIVE PROGRAM.**

16 **(a) EXTENSION OF PROGRAM.—***Section 2 of*
 17 *the Central Intelligence Agency Voluntary*
 18 *Separation Pay Act (50 U.S.C. 403–4 note) is*
 19 *amended—*

20 **(1) by striking subsection (f); and**

21 **(2) by redesignating subsections (g)**
 22 *and (h) as subsections (f) and (g), respec-*
 23 *tively.*

24 **(b) TERMINATION OF FUNDS REMITTANCE RE-**
 25 **QUIREMENT.—***(1) Section 2 of such Act (50*

1 *U.S.C. 403–4 note) is further amended by strik-*
 2 *ing subsection (i).*

3 (2) *Section 4(a)(2)(B)(ii) of the Federal*
 4 *Workforce Restructuring Act of 1994 (5 U.S.C.*
 5 *8331 note) is amended by striking “, or section*
 6 *2 of the Central Intelligence Agency Voluntary*
 7 *Separation Pay Act (Public Law 103–36; 107*
 8 *Stat. 104)”.*

9 *SEC. 1062. NATIONAL SECURITY AGENCY EMERGING TECH-*
 10 *NOLOGIES PANEL.*

11 *The National Security Agency Act of 1959*
 12 *(50 U.S.C. 402 note) is amended by adding at*
 13 *the end the following new section:*

14 “*SEC. 19. (a) There is established the Na-*
 15 *tional Security Agency Emerging Technologies*
 16 *Panel. The panel is a standing panel of the*
 17 *National Security Agency. The panel shall be*
 18 *appointed by, and shall report directly to, the*
 19 *Director.*

20 “*(b) The National Security Agency Emerg-*
 21 *ing Technologies Panel shall study and assess,*
 22 *and periodically advise the Director on, the re-*
 23 *search, development, and application of exist-*
 24 *ing and emerging science and technology ad-*

1 *vances, advances on encryption, and other top-*
 2 *ics.*

3 “(c) *The Federal Advisory Committee Act (5*
 4 *U.S.C. App.) shall not apply with respect to the*
 5 *National Security Agency Emerging Tech-*
 6 *nologies Panel.*”.

7 ***Subtitle G—Conforming and Other***
 8 ***Amendments***

9 ***SEC. 1071. CONFORMING AMENDMENTS RELATING TO***
 10 ***ROLES OF NATIONAL INTELLIGENCE DIREC-***
 11 ***TOR AND DIRECTOR OF THE CENTRAL INTEL-***
 12 ***LIGENCE AGENCY.***

13 ***(a) NATIONAL SECURITY ACT OF 1947.—(1)***
 14 ***The National Security Act of 1947 (50 U.S.C.***
 15 ***401 et seq.) is amended by striking “Director***
 16 ***of Central Intelligence” each place it appears***
 17 ***in the following provisions and inserting “Na-***
 18 ***tional Intelligence Director”:***

19 ***(A) Section 3(5)(B) (50 U.S.C.***
 20 ***401a(5)(B)).***

21 ***(B) Section 101(h)(2)(A) (50 U.S.C.***
 22 ***402(h)(2)(A)).***

23 ***(C) Section 101(h)(5) (50 U.S.C.***
 24 ***402(h)(5)).***

1 **(D) Section 101(i)(2)(A) (50 U.S.C.**
2 **402(i)(2)(A)).**

3 **(E) Section 101(j) (50 U.S.C. 402(j)).**

4 **(F) Section 105(a) (50 U.S.C. 403–5(a)).**

5 **(G) Section 105(b)(6)(A) (50 U.S.C.**
6 **403–5(b)(6)(A)).**

7 **(H) Section 105B(a)(1) (50 U.S.C. 403–**
8 **5b(a)(1)).**

9 **(I) Section 105B(b) (50 U.S.C. 403–**
10 **5b(b)), the first place it appears.**

11 **(J) Section 110(b) (50 U.S.C. 404e(b)).**

12 **(K) Section 110(c) (50 U.S.C. 404e(c)).**

13 **(L) Section 112(a)(1) (50 U.S.C.**
14 **404g(a)(1)).**

15 **(M) Section 112(d)(1) (50 U.S.C.**
16 **404g(d)(1)).**

17 **(N) Section 113(b)(2)(A) (50 U.S.C.**
18 **404h(b)(2)(A)).**

19 **(O) Section 114(a)(1) (50 U.S.C.**
20 **404i(a)(1)).**

21 **(P) Section 114(b)(1) (50 U.S.C.**
22 **404i(b)(1)).**

23 **(Q) Section 115(a)(1) (50 U.S.C.**
24 **404j(a)(1)).**

25 **(R) Section 115(b) (50 U.S.C. 404j(b)).**

1 **(S) Section 115(c)(1)(B) (50 U.S.C.**
2 **404j(c)(1)(B)).**

3 **(T) Section 116(a) (50 U.S.C. 404k(a)).**

4 **(U) Section 117(a)(1) (50 U.S.C.**
5 **404l(a)(1)).**

6 **(V) Section 303(a) (50 U.S.C. 405(a)),**
7 ***both places it appears.***

8 **(W) Section 501(d) (50 U.S.C. 413(d)).**

9 **(X) Section 502(a) (50 U.S.C. 413a(a)).**

10 **(Y) Section 502(c) (50 U.S.C. 413a(c)).**

11 **(Z) Section 503(b) (50 U.S.C. 413b(b)).**

12 **(AA) Section 504(a)(3)(C) (50 U.S.C.**
13 **414(a)(3)(C)).**

14 **(BB) Section 504(d)(2) (50 U.S.C.**
15 **414(d)(2)).**

16 **(CC) Section 506A(a)(1) (50 U.S.C.**
17 **415a–1(a)(1)).**

18 **(DD) Section 603(a) (50 U.S.C. 423(a)).**

19 **(EE) Section 702(a)(1) (50 U.S.C.**
20 **432(a)(1)).**

21 **(FF) Section 702(a)(6)(B)(viii) (50**
22 **U.S.C. 432(a)(6)(B)(viii)).**

23 **(GG) Section 702(b)(1) (50 U.S.C.**
24 **432(b)(1)), *both places it appears.***

1 ***(HH) Section 703(a)(1) (50 U.S.C.***
2 ***432a(a)(1)).***

3 ***(II) Section 703(a)(6)(B)(viii) (50***
4 ***U.S.C. 432a(a)(6)(B)(viii)).***

5 ***(JJ) Section 703(b)(1) (50 U.S.C.***
6 ***432a(b)(1)), both places it appears.***

7 ***(KK) Section 704(a)(1) (50 U.S.C.***
8 ***432b(a)(1)).***

9 ***(LL) Section 704(f)(2)(H) (50 U.S.C.***
10 ***432b(f)(2)(H)).***

11 ***(MM) Section 704(g)(1) (50 U.S.C.***
12 ***432b(g)(1)), both places it appears.***

13 ***(NN) Section 1001(a) (50 U.S.C.***
14 ***441g(a)).***

15 ***(OO) Section 1102(a)(1) (50 U.S.C.***
16 ***442a(a)(1)).***

17 ***(PP) Section 1102(b)(1) (50 U.S.C.***
18 ***442a(b)(1)).***

19 ***(QQ) Section 1102(c)(1) (50 U.S.C.***
20 ***442a(c)(1)).***

21 ***(RR) Section 1102(d) (50 U.S.C.***
22 ***442a(d)).***

23 ***(2) That Act is further amended by striking***
24 ***“of Central Intelligence” each place it appears***
25 ***in the following provisions:***

1 **(A) Section 105(a)(2) (50 U.S.C. 403–**
2 **5(a)(2)).**

3 **(B) Section 105B(a)(2) (50 U.S.C. 403–**
4 **5b(a)(2)).**

5 **(C) Section 105B(b) (50 U.S.C. 403–**
6 **5b(b)), the second place it appears.**

7 **(3) That Act is further amended by striking**
8 **“Director” each place it appears in the fol-**
9 **lowing provisions and inserting “National In-**
10 **telligence Director”:**

11 **(A) Section 114(c) (50 U.S.C. 404i(c)).**

12 **(B) Section 116(b) (50 U.S.C. 404k(b)).**

13 **(C) Section 1001(b) (50 U.S.C. 441g(b)).**

14 **(D) Section 1001(c) (50 U.S.C. 441g(c)),**
15 **the first place it appears.**

16 **(E) Section 1001(d)(1)(B) (50 U.S.C.**
17 **441g(d)(1)(B)).**

18 **(F) Section 1001(e) (50 U.S.C. 441g(e)),**
19 **the first place it appears.**

20 **(4) Section 114A of that Act (50 U.S.C. 404i–**
21 **1) is amended by striking “Director of Central**
22 **Intelligence” and inserting “National Intel-**
23 **ligence Director, the Director of the Central**
24 **Intelligence Agency”.**

1 ***(5) Section 504(a)(2) of that Act (50 U.S.C.***
2 ***414(a)(2)) is amended by striking “Director of***
3 ***Central Intelligence” and inserting “Director***
4 ***of the Central Intelligence Agency”.***

5 ***(6) Section 701 of that Act (50 U.S.C. 431)***
6 ***is amended—***

7 ***(A) in subsection (a), by striking***
8 ***“Operational files of the Central Intel-***
9 ***ligence Agency may be exempted by the Di-***
10 ***rector of Central Intelligence” and insert-***
11 ***ing “The Director of the Central Intel-***
12 ***ligence Agency, with the coordination of***
13 ***the National Intelligence Director, may***
14 ***exempt operational files of the Central In-***
15 ***telligence Agency”; and***

16 ***(B) in subsection (g)(1), by striking***
17 ***“Director of Central Intelligence” and in-***
18 ***serting “Director of the Central Intel-***
19 ***ligence Agency and the National Intel-***
20 ***ligence Director”.***

21 ***(7) The heading for section 114 of that Act***
22 ***(50 U.S.C. 404i) is amended to read as follows:***

23 ***“ADDITIONAL ANNUAL REPORTS FROM THE***
24 ***NATIONAL INTELLIGENCE DIRECTOR”.***

25 ***(b) CENTRAL INTELLIGENCE AGENCY ACT OF***
26 ***1949.—(1) The Central Intelligence Agency Act***

1 *of 1949 (50 U.S.C. 403a et seq.) is amended by*
2 *striking “Director of Central Intelligence”*
3 *each place it appears in the following provi-*
4 *sions and inserting “National Intelligence Di-*
5 *rector”:*

6 (A) Section 6 (50 U.S.C. 403g).

7 (B) Section 17(f) (50 U.S.C. 403q(f)),
8 *both places it appears.*

9 (2) *That Act is further amended by striking*
10 *“of Central Intelligence” in each of the fol-*
11 *lowing provisions:*

12 (A) Section 2 (50 U.S.C. 403b).

13 (B) Section 16(c)(1)(B) (50 U.S.C.
14 403p(c)(1)(B)).

15 (C) Section 17(d)(1) (50 U.S.C.
16 403q(d)(1)).

17 (D) Section 20(c) (50 U.S.C. 403t(c)).

18 (3) *That Act is further amended by striking*
19 *“Director of Central Intelligence” each place it*
20 *appears in the following provisions and insert-*
21 *ing “Director of the Central Intelligence Agen-*
22 *cy”:*

23 (A) Section 14(b) (50 U.S.C. 403n(b)).

24 (B) Section 16(b)(2) (50 U.S.C.
25 403p(b)(2)).

1 (C) *Section 16(b)(3) (50 U.S.C.*
2 *403p(b)(3)), both places it appears.*

3 (D) *Section 21(g)(1) (50 U.S.C.*
4 *403u(g)(1)).*

5 (E) *Section 21(g)(2) (50 U.S.C.*
6 *403u(g)(2)).*

7 (c) *CENTRAL INTELLIGENCE AGENCY RETIRE-*
8 *MENT ACT.—Section 101 of the Central Intel-*
9 *ligence Agency Retirement Act (50 U.S.C. 2001)*
10 *is amended by striking paragraph (2) and in-*
11 *serting the following new paragraph (2):*

12 “(2) *DIRECTOR.—The term ‘Director’*
13 *means the Director of the Central Intel-*
14 *ligence Agency.”.*

15 (d) *CIA VOLUNTARY SEPARATION PAY ACT.—*
16 *Subsection (a)(1) of section 2 of the Central In-*
17 *telligence Agency Voluntary Separation Pay*
18 *Act (50 U.S.C. 2001 note) is amended to read*
19 *as follows:*

20 “(1) *the term ‘Director’ means the Di-*
21 *rector of the Central Intelligence Agen-*
22 *cy;”.*

23 (e) *FOREIGN INTELLIGENCE SURVEILLANCE*
24 *ACT OF 1978.—(1) The Foreign Intelligence*
25 *Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)*

1 *is amended by striking “Director of Central In-*
2 *telligence” each place it appears and inserting*
3 *“National Intelligence Director”.*

4 (f) *CLASSIFIED INFORMATION PROCEDURES*
5 *ACT.—Section 9(a) of the Classified Informa-*
6 *tion Procedures Act (5 U.S.C. App.) is amended*
7 *by striking “Director of Central Intelligence”*
8 *and inserting “National Intelligence Direc-*
9 *tor”.*

10 (g) *INTELLIGENCE AUTHORIZATION ACTS.—*

11 (1) *PUBLIC LAW 103–359.—Section*
12 *811(c)(6)(C) of the counterintelligence and*
13 *Security Enhancements Act of 1994 (title*
14 *VIII of Public Law 103–359) is amended by*
15 *striking “Director of Central Intelligence”*
16 *and inserting “National Intelligence Di-*
17 *rector”.*

18 (2) *PUBLIC LAW 107–306.—(A) The Intel-*
19 *ligence Authorization Act for Fiscal Year*
20 *2003 (Public Law 107–306) is amended by*
21 *striking “Director of Central Intelligence,*
22 *acting as the head of the intelligence com-*
23 *munity,” each place it appears in the fol-*
24 *lowing provisions and inserting “National*
25 *Intelligence Director”:*

1 **(i) Section 313(a) (50 U.S.C.**
2 **404n(a)).**

3 **(ii) Section 343(a)(1) (50 U.S.C.**
4 **404n-2(a)(1))**

5 **(B) That Act is further amended by**
6 **striking “Director of Central Intelligence”**
7 **each place it appears in the following**
8 **provisions and inserting “National Intel-**
9 **ligence Director”:**

10 **(i) Section 902(a)(2) (50 U.S.C.**
11 **402b(a)(2)).**

12 **(ii) Section 904(e)(4) (50 U.S.C.**
13 **402c(e)(4)).**

14 **(iii) Section 904(e)(5) (50 U.S.C.**
15 **402c(e)(5)).**

16 **(iv) Section 904(h) (50 U.S.C.**
17 **402c(h)), each place it appears.**

18 **(v) Section 904(m) (50 U.S.C.**
19 **402c(m)).**

20 **(C) Section 341 of that Act (50 U.S.C.**
21 **404n-1) is amended by striking “Director**
22 **of Central Intelligence, acting as the head**
23 **of the intelligence community, shall estab-**
24 **lish in the Central Intelligence Agency”**
25 **and inserting “National Intelligence Di-**

1 *rector shall establish within the Central*
2 *Intelligence Agency”.*

3 *(D) Section 352(b) of that Act (50*
4 *U.S.C. 404–3 note) is amended by striking*
5 *“Director” and inserting “National Intel-*
6 *ligence Director”.*

7 *(3) PUBLIC LAW 108–177.—(A) The Intel-*
8 *ligence Authorization Act for Fiscal Year*
9 *2004 (Public Law 108–177) is amended by*
10 *striking “Director of Central Intelligence”*
11 *each place it appears in the following*
12 *provisions and inserting “National Intel-*
13 *ligence Director”:*

14 *(i) Section 317(a) (50 U.S.C. 403–3*
15 *note).*

16 *(ii) Section 317(h)(1).*

17 *(iii) Section 318(a) (50 U.S.C. 441g*
18 *note).*

19 *(iv) Section 319(b) (50 U.S.C. 403*
20 *note).*

21 *(v) Section 341(b) (28 U.S.C. 519*
22 *note).*

23 *(vi) Section 357(a) (50 U.S.C. 403*
24 *note).*

1 (vii) *Section 504(a) (117 Stat.*
2 *2634), both places it appears.*

3 (B) *Section 319(f)(2) of that Act (50*
4 *U.S.C. 403 note) is amended by striking*
5 *“Director” the first place it appears and*
6 *inserting “National Intelligence Direc-*
7 *tor”.*

8 (C) *Section 404 of that Act (18 U.S.C.*
9 *4124 note) is amended by striking “Direc-*
10 *tor of Central Intelligence” and inserting*
11 *“Director of the Central Intelligence Agen-*
12 *cy”.*

13 *SEC. 1072. OTHER CONFORMING AMENDMENTS*

14 (a) *NATIONAL SECURITY ACT OF 1947.—(1)*
15 *Section 101(j) of the National Security Act of*
16 *1947 (50 U.S.C. 402(j)) is amended by striking*
17 *“Deputy Director of Central Intelligence” and*
18 *inserting “Deputy National Intelligence Direc-*
19 *tor”.*

20 (2) *Section 112(d)(1) of that Act (50 U.S.C.*
21 *404g(d)(1)) is amended by striking “section*
22 *103(c)(6) of this Act” and inserting “section*
23 *102A(g) of this Act”.*

24 (3) *Section 116(b) of that Act (50 U.S.C.*
25 *404k(b)) is amended by striking “to the Deputy*

1 *Director of Central Intelligence, or with re-*
2 *spect to employees of the Central Intelligence*
3 *Agency, the Director may delegate such au-*
4 *thority to the Deputy Director for Operations”*
5 *and inserting “to the Deputy National Intel-*
6 *ligence Director, or with respect to employees*
7 *of the Central Intelligence Agency, to the Di-*
8 *rector of the Central Intelligence Agency”.*

9 (4) *Section 506A(b)(1) of that Act (50 U.S.C.*
10 *415a–1(b)(1)) is amended by striking “Office of*
11 *the Deputy Director of Central Intelligence”*
12 *and inserting “Office of the National Intel-*
13 *ligence Director”.*

14 (5) *Section 701(c)(3) of that Act (50 U.S.C.*
15 *431(c)(3)) is amended by striking “Office of the*
16 *Director of Central Intelligence” and inserting*
17 *“Office of the National Intelligence Director”.*

18 (6) *Section 1001(b) of that Act (50 U.S.C.*
19 *441g(b)) is amended by striking “Assistant Di-*
20 *rector of Central Intelligence for Administra-*
21 *tion” and inserting “Office of the National In-*
22 *telligence Director”.*

23 (b) *CENTRAL INTELLIGENCE ACT OF 1949.—*
24 *Section 6 of the Central Intelligence Agency*
25 *Act of 1949 (50 U.S.C. 403g) is amended by*

1 *striking “section 103(c)(7) of the National Se-*
2 *curity Act of 1947 (50 U.S.C. 403–3(c)(7))” and*
3 *inserting “section 102A(g) of the National Se-*
4 *curity Act of 1947”.*

5 **(c) CENTRAL INTELLIGENCE AGENCY RETIRE-**
6 **MENT ACT.**—*Section 201(c) of the Central Intel-*
7 *ligence Agency Retirement Act (50 U.S.C.*
8 *2011(c)) is amended by striking “paragraph*
9 *(6) of section 103(c) of the National Security*
10 *Act of 1947 (50 U.S.C. 403–3(c)) that the Direc-*
11 *tor of Central Intelligence” and inserting “sec-*
12 *tion 102A(g) of the National Security Act of*
13 *1947 (50 U.S.C. 403–3(c)(1)) that the National*
14 *Intelligence Director”.*

15 **(d) INTELLIGENCE AUTHORIZATION ACTS.**—

16 **(1) PUBLIC LAW 107–306.**—**(A)** *Section*
17 *343(c) of the Intelligence Authorization*
18 *Act for Fiscal Year 2003 (Public Law 107–*
19 *306; 50 U.S.C. 404n–2(c)) is amended by*
20 *striking “section 103(c)(6) of the National*
21 *Security Act of 1947 (50 U.S.C. 403–*
22 *3((c)(6))” and inserting “section 102A(g) of*
23 *the National Security Act of 1947 (50*
24 *U.S.C. 403–3(c)(1))”.*

1 ***(B) Section 904 of that Act (50 U.S.C.***
2 ***402c) is amended—***

3 ***(i) in subsection (c), by striking***
4 ***“Office of the Director of Central In-***
5 ***telligence” and inserting “Office of the***
6 ***National Intelligence Director”; and***

7 ***(ii) in subsection (l), by striking***
8 ***“Office of the Director of Central In-***
9 ***telligence” and inserting “Office of the***
10 ***National Intelligence Director”.***

11 ***(2) PUBLIC LAW 108–177.—Section 317 of***
12 ***the Intelligence Authorization Act for Fis-***
13 ***cal Year 2004 (Public Law 108–177; 50***
14 ***U.S.C. 403–3 note) is amended—***

15 ***(A) in subsection (g), by striking***
16 ***“Assistant Director of Central Intel-***
17 ***ligence for Analysis and Production”***
18 ***and inserting “Deputy National Intel-***
19 ***ligence Director”; and***

20 ***(B) in subsection (h)(2)(C), by***
21 ***striking “Assistant Director” and in-***
22 ***serting “Deputy National Intelligence***
23 ***Director”.***

1 **SEC. 1073. ELEMENTS OF INTELLIGENCE COMMUNITY**
2 **UNDER NATIONAL SECURITY ACT OF 1947.**

3 ***Paragraph (4) of section 3 of the National***
4 ***Security Act of 1947 (50 U.S.C. 401a) is amend-***
5 ***ed to read as follows:***

6 ***“(4) The term ‘intelligence community’***
7 ***includes the following:***

8 ***“(A) The Office of the National In-***
9 ***telligence Director.***

10 ***“(B) The Central Intelligence***
11 ***Agency.***

12 ***“(C) The National Security Agen-***
13 ***cy.***

14 ***“(D) The Defense Intelligence***
15 ***Agency.***

16 ***“(E) The National Geospatial-In-***
17 ***telligence Agency.***

18 ***“(F) The National Reconnaissance***
19 ***Office.***

20 ***“(G) Other offices within the De-***
21 ***partment of Defense for the collection***
22 ***of specialized national intelligence***
23 ***through reconnaissance programs.***

24 ***“(H) The intelligence elements of***
25 ***the Army, the Navy, the Air Force, the***
26 ***Marine Corps, the Federal Bureau of***

1 *Investigation, and the Department of*
2 *Energy.*

3 “(I) *The Bureau of Intelligence*
4 *and Research of the Department of*
5 *State.*

6 “(J) *The Office of Intelligence and*
7 *Analysis of the Department of the*
8 *Treasury.*

9 “(K) *The elements of the Depart-*
10 *ment of Homeland Security concerned*
11 *with the analysis of intelligence infor-*
12 *mation, including the Office of Intel-*
13 *ligence of the Coast Guard.*

14 “(L) *Such other elements of any*
15 *other department or agency as may be*
16 *designated by the President, or des-*
17 *ignated jointly by the National Intel-*
18 *ligence Director and the head of the*
19 *department or agency concerned, as*
20 *an element of the intelligence commu-*
21 *nity.”.*

1 *SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN INTEL-*
2 *LIGENCE PROGRAM AS NATIONAL INTEL-*
3 *LIGENCE PROGRAM.*

4 *(a) REDESIGNATION.—Paragraph (6) of sec-*
5 *tion 3 of the National Security Act of 1947 (50*
6 *U.S.C. 401a) is amended by striking “Foreign”.*

7 *(b) CONFORMING AMENDMENTS.—(1) Section*
8 *506(a) of the National Security Act of 1947 (50*
9 *U.S.C. 415a(a)) is amended by striking “Na-*
10 *tional Foreign Intelligence Program” and in-*
11 *serting “National Intelligence Program”.*

12 *(2) Section 17(f) of the Central Intelligence*
13 *Agency Act of 1949 (50 U.S.C. 403q(f)) is*
14 *amended by striking “National Foreign Intel-*
15 *ligence Program” and inserting “National In-*
16 *telligence Program”.*

17 *(c) HEADING AMENDMENT.—The heading of*
18 *section 506 of that Act is amended by striking*
19 *“FOREIGN”.*

20 *SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.*

21 *(a) APPOINTMENT OF CERTAIN INTELLIGENCE*
22 *OFFICIALS.—Section 106 of the National Secu-*
23 *rity Act of 1947 (50 U.S.C. 403–6) is repealed.*

24 *(b) COLLECTION TASKING AUTHORITY.—Sec-*
25 *tion 111 of the National Security Act of 1947*
26 *(50 U.S.C. 404f) is repealed.*

1 **SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECU-**
2 **RITY ACT OF 1947.**

3 ***The table of contents for the National Se-***
4 ***curity Act of 1947 is amended—***

5 ***(1) by striking the items relating to***
6 ***sections 102 through 104 and inserting the***
7 ***following new items:***

“Sec. 102. National Intelligence Director.

“Sec. 102A. Responsibilities and authorities of National Intel-
ligence Director.

“Sec. 103. Office of the National Intelligence Director.

“Sec. 104. Central Intelligence Agency.

“Sec. 104A. Director of the Central Intelligence Agency.”; and

8 ***(2) by striking the item relating to sec-***
9 ***tion 114 and inserting the following new***
10 ***item:***

“Sec. 114. Additional annual reports from the National Intel-
ligence Director.”;

11 ***and***

12 ***(3) by striking the item relating to sec-***
13 ***tion 506 and inserting the following new***
14 ***item:***

“Sec. 506. Specificity of National Intelligence Program budget
amounts for counterterrorism, counter-
proliferation, counternarcotics, and counter-
intelligence”.

15 **SEC. 1077. CONFORMING AMENDMENTS RELATING TO PRO-**
16 **HIBITING DUAL SERVICE OF THE DIRECTOR**
17 **OF THE CENTRAL INTELLIGENCE AGENCY.**

18 ***Section 1 of the Central Intelligence Agen-***
19 ***cy Act of 1949 (50 U.S.C. 403a) is amended—***

1 (1) *by redesignating paragraphs (a),*
2 *(b), and (c) as paragraphs (1), (2), and*
3 *(3), respectively; and*

4 (2) *by striking paragraph (2), as so re-*
5 *designated, and inserting the following*
6 *new paragraph (2):*

7 “(2) ‘*Director*’ *means the Director of the*
8 *Central Intelligence Agency; and”.*

9 SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTECTIONS.

10 *Section 17(a)(1) of the Central Intelligence*
11 *Agency Act of 1949 (50 U.S.C. 403q(a)(1)) is*
12 *amended by inserting before the semicolon at*
13 *the end the following: “and to programs and*
14 *operations of the Office of the National Intel-*
15 *ligence Director”.*

16 SEC. 1079. GENERAL REFERENCES.

17 (a) *DIRECTOR OF CENTRAL INTELLIGENCE AS*
18 *HEAD OF INTELLIGENCE COMMUNITY.—Any ref-*
19 *erence to the Director of Central Intelligence*
20 *or the Director of the Central Intelligence*
21 *Agency in the Director’s capacity as the head*
22 *of the intelligence community in any law, regu-*
23 *lation, document, paper, or other record of the*
24 *United States shall be deemed to be a reference*
25 *to the National Intelligence Director.*

1 **(b) DIRECTOR OF CENTRAL INTELLIGENCE AS**
 2 **HEAD OF CIA.**—Any reference to the Director of
 3 **Central Intelligence or the Director of the Cen-**
 4 **tral Intelligence Agency in the Director’s ca-**
 5 **capacity as the head of the Central Intelligence**
 6 **Agency in any law, regulation, document,**
 7 **paper, or other record of the United States**
 8 **shall be deemed to be a reference to the Direc-**
 9 **tor of the Central Intelligence Agency.**

10 **(c) COMMUNITY MANAGEMENT STAFF.**—Any
 11 **reference to the Community Management Staff**
 12 **in any law, regulation, document, paper, or**
 13 **other record of the United States shall be**
 14 **deemed to be a reference to the staff of the Of-**
 15 **fice of the National Intelligence Director.**

16 **SEC. 1080. APPLICATION OF OTHER LAWS.**

17 **(a) POLITICAL SERVICE OF PERSONNEL.**—Sec-
 18 **tion 7323(b)(2)(B)(i) of title 5, United States**
 19 **Code, is amended—**

20 **(1) in subclause (XII), by striking “or”**
 21 **at the end; and**

22 **(2) by inserting after subclause (XIII)**
 23 **the following new subclause:**

24 **“(XIV) the Office of the National**
 25 **Intelligence Director; or”.**

1 **(b) DELETION OF INFORMATION ABOUT FOR-**
2 **EIGN GIFTS.—Section 7342(f)(4) of title 5,**
3 **United States Code, is amended—**

4 **(1) by inserting “(A)” after “(4)”;**

5 **(2) in subparagraph (A), as so des-**
6 **ignated, by striking “the Director of Cen-**
7 **tral Intelligence” and inserting “the Di-**
8 **rector of the Central Intelligence Agency”;**
9 **and**

10 **(3) by adding at the end the following**
11 **new subparagraph:**

12 **“(B) In transmitting such listings for the**
13 **Office of the National Intelligence Director,**
14 **the National Intelligence Director may delete**
15 **the information described in subparagraphs**
16 **(A) and (C) of paragraphs (2) and (3) if the Di-**
17 **rector certifies in writing to the Secretary of**
18 **State that the publication of such information**
19 **could adversely affect United States intel-**
20 **ligence sources.”.**

21 **(c) EXEMPTION FROM FINANCIAL DISCLO-**
22 **SURES.—Section 105(a)(1) of the Ethics in Gov-**
23 **ernment Act (5 U.S.C. App.) is amended by in-**
24 **serting “the Office of the National Intelligence**

1 *Director,” before “the Central Intelligence*
2 *Agency”.*

3 ***Subtitle H—Transfer, Termination,***
4 ***Transition and Other Provisions***

5 ***SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT STAFF.***

6 ***(a) TRANSFER.—There shall be transferred***
7 ***to the Office of the National Intelligence Direc-***
8 ***tor the staff of the Community Management***
9 ***Staff as of the date of the enactment of this***
10 ***Act, including all functions and activities dis-***
11 ***charged by the Community Management Staff***
12 ***as of that date.***

13 ***(b) ADMINISTRATION.—The National Intel-***
14 ***ligence Director shall administer the Commu-***
15 ***nity Management Staff after the date of the en-***
16 ***actment of this Act as a component of the Of-***
17 ***fice of the National Intelligence Director***
18 ***under section 103(b) of the National Security***
19 ***Act of 1947, as amended by section 1011(a).***

20 ***SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-***
21 ***TION CENTER.***

22 ***(a) TRANSFER.—There shall be transferred***
23 ***to the National counterterrorism Center the***
24 ***Terrorist Threat Integration Center (TTIC),***
25 ***including all functions and activities dis-***

1 *charged by the Terrorist Threat Integration*
2 *Center as of the date of the enactment of this*
3 *Act.*

4 **(b) ADMINISTRATION.**—*The Director of the*
5 *National counterterrorism Center shall ad-*
6 *minister the Terrorist Threat Integration Cen-*
7 *ter after the date of the enactment of this Act*
8 *as a component of the Directorate of Intel-*
9 *ligence of the National counterterrorism Cen-*
10 *ter under section 119(i) of the National Secu-*
11 *rity Act of 1947, as added by section 1021(a).*

12 **SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-**
13 **RECTORS OF CENTRAL INTELLIGENCE.**

14 **(a) TERMINATION.**—*The positions within*
15 *the Central Intelligence Agency referred to in*
16 *subsection (b) are hereby abolished.*

17 **(b) COVERED POSITIONS.**—*The positions*
18 *within the Central Intelligence Agency re-*
19 *ferred to in this subsection are as follows:*

20 **(1) The Assistant Director of Central**
21 **Intelligence for Collection.**

22 **(2) The Assistant Director of Central**
23 **Intelligence for Analysis and Production.**

24 **(3) The Assistant Director of Central**
25 **Intelligence for Administration.**

1 **SEC. 1094. IMPLEMENTATION PLAN.**

2 **(a) SUBMISSION OF PLAN.—The President**
3 ***shall transmit to Congress a plan for the im-***
4 ***plementation of this title and the amendments***
5 ***made by this title. The plan shall address, at***
6 ***a minimum, the following:***

7 **(1) The transfer of personnel, assets,**
8 ***and obligations to the National Intel-***
9 ***ligence Director pursuant to this title.***

10 **(2) Any consolidation, reorganization,**
11 ***or streamlining of activities transferred to***
12 ***the National Intelligence Director pursu-***
13 ***ant to this title.***

14 **(3) The establishment of offices within**
15 ***the Office of the National Intelligence Di-***
16 ***rector to implement the duties and re-***
17 ***sponsibilities of the National Intelligence***
18 ***Director as described in this title.***

19 **(4) Specification of any proposed dis-**
20 ***position of property, facilities, contracts,***
21 ***records, and other assets and obligations***
22 ***to be transferred to the National Intel-***
23 ***ligence Director.***

24 **(5) Recommendations for additional**
25 ***legislative or administrative action as the***
26 ***Director considers appropriate.***

1 **(b) SENSE OF CONGRESS.—***It is the sense of*
2 *Congress that the permanent location for the*
3 *headquarters for the Office of the National In-*
4 *telligence Director, should be at a location*
5 *other than the George Bush Center for Intel-*
6 *ligence in Langley, Virginia.*

7 **SEC. 1095. TRANSITIONAL AUTHORITIES.**

8 *Upon the request of the National Intel-*
9 *ligence Director, the head of any executive*
10 *agency may, on a reimbursable basis, provide*
11 *services or detail personnel to the National In-*
12 *telligence Director.*

13 **SEC. 1096. EFFECTIVE DATES.**

14 **(a) IN GENERAL.—***Except as otherwise ex-*
15 *pressly provided in this Act, this title and the*
16 *amendments made by this title shall take ef-*
17 *fect on the date of the enactment of this Act.*

18 **(b) SPECIFIC EFFECTIVE DATES.—***(1)(A) Not*
19 *later than 60 days after the date of the enact-*
20 *ment of this Act, the National Intelligence Di-*
21 *rector shall first appoint individuals to posi-*
22 *tions within the Office of the National Intel-*
23 *ligence Director.*

1 ***(B) Subparagraph (A) shall not apply with***
2 ***respect to the Deputy National Intelligence Di-***
3 ***rector.***

4 ***(2) Not later than 180 days after the date***
5 ***of the enactment of this Act, the President***
6 ***shall transmit to Congress the implementation***
7 ***plan required under section 1904.***

8 ***(3) Not later than one year after the date***
9 ***of the enactment of this Act, the National In-***
10 ***telligence Director shall prescribe regulations,***
11 ***policies, procedures, standards, and guide-***
12 ***lines required under section 102A of the Na-***
13 ***tional Security Act of 1947, as amended by sec-***
14 ***tion 1011(a).***

15 ***TITLE II—TERRORISM PREVEN-***
16 ***TION AND PROSECUTION***

17 ***Subtitle A—Individual Terrorists as***
18 ***Agents of Foreign Powers***

19 ***SECTION 2001. INDIVIDUAL TERRORISTS AS AGENTS OF***
20 ***FOREIGN POWERS.***

21 ***Section 101(b)(1) of the Foreign Intel-***
22 ***ligence Surveillance Act of 1978 (50 U.S.C.***
23 ***1801(b)(1)) is amended by adding at the end***
24 ***the following new subparagraph:***

1 “(C) *engages in international ter-*
2 *rorism or activities in preparation*
3 *therefor; or*”.

4 ***Subtitle B—Stop Terrorist and***
5 ***Military Hoaxes Act of 2004***

6 SEC. 2021. SHORT TITLE.

7 *This subtitle may be cited as the “Stop Ter-*
8 *rorist and Military Hoaxes Act of 2004”.*

9 SEC. 2022. HOAXES AND RECOVERY COSTS.

10 ***(a) PROHIBITION ON HOAXES.—Chapter 47 of***
11 ***title 18, United States Code, is amended by in-***
12 ***serting after section 1037 the following:***

13 ***“§ 1038. False information and hoaxes***

14 ***“(a) CRIMINAL VIOLATION.—***

15 ***“(1) IN GENERAL.—Whoever engages in***
16 ***any conduct with intent to convey false or***
17 ***misleading information under cir-***
18 ***cumstances where such information may***
19 ***reasonably be believed and where such in-***
20 ***formation indicates that an activity has***
21 ***taken, is taking, or will take place that***
22 ***would constitute a violation of chapter 2,***
23 ***10, 11B, 39, 40, 44, 111, or 113B of this***
24 ***title, section 236 of the Atomic Energy Act***
25 ***of 1954 (42 U.S.C. 2284), or section 46502,***

1 *the second sentence of section 46504, sec-*
2 *tion 46505 (b)(3) or (c), section 46506 if*
3 *homicide or attempted homicide is in-*
4 *volved, or section 60123(b) of title 49*
5 *shall—*

6 *“(A) be fined under this title or*
7 *imprisoned not more than 5 years, or*
8 *both;*

9 *“(B) if serious bodily injury re-*
10 *sults, be fined under this title or im-*
11 *prisoned not more than 25 years, or*
12 *both; and*

13 *“(C) if death results, be fined*
14 *under this title or imprisoned for any*
15 *number of years up to life, or both.*

16 *“(2) ARMED FORCES.—Whoever, without*
17 *lawful authority, makes a false statement,*
18 *with intent to convey false or misleading*
19 *information, about the death, injury, cap-*
20 *ture, or disappearance of a member of the*
21 *Armed Forces of the United States during*
22 *a war or armed conflict in which the*
23 *United States is engaged, shall—*

1 “(A) *be fined under this title or*
2 *imprisoned not more than 5 years, or*
3 *both;*

4 “(B) *if serious bodily injury re-*
5 *sults, be fined under this title or im-*
6 *prisoned not more than 25 years, or*
7 *both; and*

8 “(C) *if death results, be fined*
9 *under this title or imprisoned for any*
10 *number of years up to life, or both.*

11 “(b) *CIVIL ACTION.—Whoever knowingly en-*
12 *gages in any conduct with intent to convey*
13 *false or misleading information under cir-*
14 *cumstances where such information may rea-*
15 *sonably be believed and where such informa-*
16 *tion indicates that an activity has taken, is*
17 *taking, or will take place that would con-*
18 *stitute a violation of chapter 2, 10, 11B, 39, 40,*
19 *44, 111, or 113B of this title, section 236 of the*
20 *Atomic Energy Act of 1954 (42 U.S.C. 2284), or*
21 *section 46502, the second sentence of section*
22 *46504, section 46505 (b)(3) or (c), section 46506*
23 *if homicide or attempted homicide is involved,*
24 *or section 60123(b) of title 49 is liable in a civil*
25 *action to any party incurring expenses inci-*

1 *dent to any emergency or investigative re-*
2 *sponse to that conduct, for those expenses.*

3 **“(c) REIMBURSEMENT.—**

4 **“(1) IN GENERAL.—***The court, in impos-*
5 *ing a sentence on a defendant who has*
6 *been convicted of an offense under sub-*
7 *section (a), shall order the defendant to*
8 *reimburse any state or local government,*
9 *or private not-for-profit organization that*
10 *provides fire or rescue service incurring*
11 *expenses incident to any emergency or in-*
12 *vestigative response to that conduct, for*
13 *those expenses.*

14 **“(2) LIABILITY.—***A person ordered to*
15 *make reimbursement under this sub-*
16 *section shall be jointly and severally lia-*
17 *ble for such expenses with each other per-*
18 *son, if any, who is ordered to make reim-*
19 *bursement under this subsection for the*
20 *same expenses.*

21 **“(3) CIVIL JUDGMENT.—***An order of re-*
22 *imbursement under this subsection shall,*
23 *for the purposes of enforcement, be treat-*
24 *ed as a civil judgment.*

1 “(d) **ACTIVITIES OF LAW ENFORCEMENT.**—
 2 *This section does not prohibit any lawfully au-*
 3 *thorized investigative, protective, or intel-*
 4 *ligence activity of a law enforcement agency of*
 5 *the United States, a State, or political subdivi-*
 6 *sion of a State, or of an intelligence agency of*
 7 *the United States.”.*

8 (b) **CLERICAL AMENDMENT.**—*The table of*
 9 *sections as the beginning of chapter 47 of title*
 10 *18, United States Code, is amended by adding*
 11 *after the item for section 1037 the following:*

“1038. False information and hoaxes.”.

12 **SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATE-**
 13 **MENTS IN TERRORISM CASES.**

14 (a) **ENHANCED PENALTY.**—*Section 1001(a)*
 15 *and the third undesignated paragraph of sec-*
 16 *tion 1505 of title 18, United States Code, are*
 17 *amended by striking “be fined under this title*
 18 *or imprisoned not more than 5 years, or both”*
 19 *and inserting “be fined under this title, im-*
 20 *prisoned not more than 5 years or, if the mat-*
 21 *ter relates to international or domestic ter-*
 22 *rorism (as defined in section 2331), imprisoned*
 23 *not more than 10 years, or both”.*

24 (b) **SENTENCING GUIDELINES.**—*Not later*
 25 *than 30 days of the enactment of this section,*

1 *the United States Sentencing Commission*
2 *shall amend the Sentencing Guidelines to pro-*
3 *vide for an increased offense level for an of-*
4 *fense under sections 1001(a) and 1505 of title*
5 *18, United States Code, if the offense involves*
6 *a matter relating to international or domestic*
7 *terrorism, as defined in section 2331 of such*
8 *title.*

9 *SEC. 2024. CLARIFICATION OF DEFINITION.*

10 *Section 1958 of title 18, United States Code,*
11 *is amended—*

12 *(1) in subsection (a), by striking “fa-*
13 *cility in” and inserting “facility of”; and*

14 *(2) in subsection (b)(2), by inserting*
15 *“or foreign” after “interstate”.*

16 *Subtitle C—Material Support to*
17 *Terrorism Prohibition Enhance-*
18 *ment Act of 2004*

19 *SEC. 2041. SHORT TITLE.*

20 *This subtitle may be cited as the “Material*
21 *Support to Terrorism Prohibition Enhance-*
22 *ment Act of 2004”.*

1 *SEC. 2042. RECEIVING MILITARY-TYPE TRAINING FROM A*
2 *FOREIGN TERRORIST ORGANIZATION.*

3 *Chapter 113B of title 18, United States*
4 *Code, is amended by adding after section*
5 *2339C the following new section:*

6 *“§2339D. Receiving military-type training from a for-*
7 *foreign terrorist organization*

8 *“(a) OFFENSE.—Whoever knowingly re-*
9 *ceives military-type training from or on behalf*
10 *of any organization designated at the time of*
11 *the training by the Secretary of State under*
12 *section 219(a)(1) of the Immigration and Na-*
13 *tionality Act as a foreign terrorist organiza-*
14 *tion shall be fined under this title or impris-*
15 *oned for ten years, or both. To violate this sub-*
16 *section, a person must have knowledge that*
17 *the organization is a designated terrorist or-*
18 *ganization (as defined in subsection (c)(4)),*
19 *that the organization has engaged or engages*
20 *in terrorist activity (as defined in section 212*
21 *of the Immigration and Nationality Act), or*
22 *that the organization has engaged or engages*
23 *in terrorism (as defined in section 140(d)(2) of*
24 *the Foreign Relations Authorization Act, Fis-*
25 *cal Years 1988 and 1989).*

1 “(b) *EXTRATERRITORIAL JURISDICTION.—*
2 *There is extraterritorial Federal jurisdiction*
3 *over an offense under this section. There is ju-*
4 *risdiction over an offense under subsection (a)*
5 *if—*

6 “(1) *an offender is a national of the*
7 *United States (as defined in 101(a)(22) of*
8 *the Immigration and Nationality Act) or*
9 *an alien lawfully admitted for permanent*
10 *residence in the United States (as defined*
11 *in section 101(a)(20) of the Immigration*
12 *and Nationality Act);*

13 “(2) *an offender is a stateless person*
14 *whose habitual residence is in the United*
15 *States;*

16 “(3) *after the conduct required for the*
17 *offense occurs an offender is brought into*
18 *or found in the United States, even if the*
19 *conduct required for the offense occurs*
20 *outside the United States;*

21 “(4) *the offense occurs in whole or in*
22 *part within the United States;*

23 “(5) *the offense occurs in or affects*
24 *interstate or foreign commerce;*

1 “(6) *an offender aids or abets any per-*
2 *son over whom jurisdiction exists under*
3 *this paragraph in committing an offense*
4 *under subsection (a) or conspires with*
5 *any person over whom jurisdiction exists*
6 *under this paragraph to commit an of-*
7 *fense under subsection (a).*

8 “(c) *DEFINITIONS.—As used in this section—*

9 “(1) *the term ‘military-type training’*
10 *includes training in means or methods*
11 *that can cause death or serious bodily in-*
12 *jury, destroy or damage property, or dis-*
13 *rupt services to critical infrastructure, or*
14 *training on the use, storage, production,*
15 *or assembly of any explosive, firearm or*
16 *other weapon, including any weapon of*
17 *mass destruction (as defined in section*
18 *2232a(c)(2));*

19 “(2) *the term ‘serious bodily injury’*
20 *has the meaning given that term in sec-*
21 *tion 1365(h)(3);*

22 “(3) *the term ‘critical infrastructure’*
23 *means systems and assets vital to na-*
24 *tional defense, national security, eco-*
25 *nomics security, public health or safety in-*

1 *cluding both regional and national infra-*
2 *structure. Critical infrastructure may be*
3 *publicly or privately owned; examples of*
4 *critical infrastructure include gas and oil*
5 *production, storage, or delivery systems,*
6 *water supply systems, telecommunications*
7 *networks, electrical power generation or*
8 *delivery systems, financing and banking*
9 *systems, emergency services (including*
10 *medical, police, fire, and rescue services),*
11 *and transportation systems and services*
12 *(including highways, mass transit, air-*
13 *lines, and airports); and*

14 *“(4) the term ‘foreign terrorist organi-*
15 *zation’ means an organization designated*
16 *as a terrorist organization under section*
17 *219(a)(1) of the Immigration and Nation-*
18 *ality Act.”.*

19 *SEC. 2043. PROVIDING MATERIAL SUPPORT TO TERRORISM.*

20 *(a) ADDITIONS TO OFFENSE OF PROVIDING*
21 *MATERIAL SUPPORT TO TERRORISTS.—Section*
22 *2339A(a) of title 18, United States Code, is*
23 *amended—*

24 *(1) by designating the first sentence as*
25 *paragraph (1);*

1 ***(2) by designating the second sentence***
2 ***as paragraph (3);***

3 ***(3) by inserting after paragraph (1) as***
4 ***so designated by this subsection the fol-***
5 ***lowing:***

6 ***“(2) (A) Whoever in a circumstance de-***
7 ***scribed in subparagraph (B) provides ma-***
8 ***terial support or resources or conceals or***
9 ***disguises the nature, location, source, or***
10 ***ownership of material support or re-***
11 ***sources, knowing or intending that they***
12 ***are to be used in preparation for, or in***
13 ***carrying out, an act of international or***
14 ***domestic terrorism (as defined in section***
15 ***2331), or in preparation for, or in car-***
16 ***rying out, the concealment or escape from***
17 ***the commission of any such act, or at-***
18 ***tempts or conspires to do so, shall be pun-***
19 ***ished as provided under paragraph (1) for***
20 ***an offense under that paragraph.***

21 ***“(B) The circumstances referred to in***
22 ***subparagraph (A) are any of the fol-***
23 ***lowing:***

24 ***“(i) The offense occurs in or af-***
25 ***fects interstate or foreign commerce.***

1 “(ii) *The act of terrorism is an act*
2 *of international or domestic terrorism*
3 *that violates the criminal law of the*
4 *United States.*

5 “(iii) *The act of terrorism is an*
6 *act of domestic terrorism that appears*
7 *to be intended to influence the policy,*
8 *or affect the conduct, of the Govern-*
9 *ment of the United States or a foreign*
10 *government.*

11 “(iv) *An offender, acting within*
12 *the United States or outside the terri-*
13 *torial jurisdiction of the United*
14 *States, is a national of the United*
15 *States (as defined in section*
16 *101(a)(22) of the Immigration and Na-*
17 *tionality Act), an alien lawfully ad-*
18 *mitted for permanent residence in the*
19 *United States (as defined in section*
20 *101(a)(20) of the Immigration and Na-*
21 *tionality Act), or a stateless person*
22 *whose habitual residence is in the*
23 *United States, and the act of ter-*
24 *rorism is an act of international ter-*
25 *rorism that appears to be intended to*

1 *influence the policy, or affect the con-*
2 *duct, of the Government of the United*
3 *States or a foreign government.*

4 “(v) *An offender, acting within the*
5 *United States, is an alien, and the act*
6 *of terrorism is an act of international*
7 *terrorism that appears to be intended*
8 *to influence the policy, or affect the*
9 *conduct, of the Government of the*
10 *United States or a foreign govern-*
11 *ment.*

12 “(vi) *An offender, acting outside*
13 *the territorial jurisdiction of the*
14 *United States, is an alien and the act*
15 *of terrorism is an act of international*
16 *terrorism that appears to be intended*
17 *to influence the policy of, or affect the*
18 *conduct of, the Government of the*
19 *United States.*

20 “(vii) *An offender aids or abets*
21 *any person over whom jurisdiction ex-*
22 *ists under this paragraph in commit-*
23 *ting an offense under this paragraph*
24 *or conspires with any person over*
25 *whom jurisdiction exists under this*

1 *paragraph to commit an offense*
2 *under this paragraph.”; and*

3 (4) *by inserting “act or” after “under-*
4 *lying”.*

5 (b) *DEFINITIONS.—Section 2339A(b) of title*
6 *18, United States Code, is amended—*

7 (1) *by striking “In this” and inserting*
8 *“(1) In this”;*

9 (2) *by inserting “any property, tan-*
10 *gible or intangible, or service, including”*
11 *after “means”;*

12 (3) *by inserting “(one or more individ-*
13 *uals who may be or include oneself)” after*
14 *“personnel”;*

15 (4) *by inserting “and” before “trans-*
16 *portation”;*

17 (5) *by striking “and other physical as-*
18 *sets”; and*

19 (6) *by adding at the end the following:*

20 “(2) *As used in this subsection, the term*
21 *‘training’ means instruction or teaching de-*
22 *signed to impart a specific skill, as opposed to*
23 *general knowledge, and the term ‘expert ad-*
24 *vice or assistance’ means advice or assistance*

1 *derived from scientific, technical or other spe-*
2 *cialized knowledge.”.*

3 (c) *ADDITION TO OFFENSE OF PROVIDING MA-*
4 *TERIAL SUPPORT TO TERRORIST ORGANIZA-*
5 *TIONS.—Section 2339B(a)(1) of title 18, United*
6 *States Code, is amended—*

7 (1) *by striking “, within the United*
8 *States or subject to the jurisdiction of the*
9 *United States,” and inserting “in a cir-*
10 *cumstance described in paragraph (2)”;*
11 *and*

12 (2) *by adding at the end the following:*
13 *“To violate this paragraph, a person must*
14 *have knowledge that the organization is a*
15 *designated terrorist organization (as de-*
16 *fined in subsection (g)(6)), that the orga-*
17 *nization has engaged or engages in ter-*
18 *rorist activity (as defined in section*
19 *212(a)(3)(B) of the Immigration and Na-*
20 *tionality Act, or that the organization has*
21 *engaged or engages in terrorism (as de-*
22 *fined in section 140(d)(2) of the Foreign*
23 *Relations Authorization Act, Fiscal Years*
24 *1988 and 1989.”.*

1 ***(d) FEDERAL AUTHORITY.—Section 2339B(d)***
2 ***of title 18 is amended—***

3 ***(1) by inserting “(1)” before “There”;***
4 ***and***

5 ***(2) by adding at the end the following:***

6 ***“(2) The circumstances referred to in para-***
7 ***graph (1) are any of the following:***

8 ***“(A) An offender is a national of the***
9 ***United States (as defined in section***
10 ***101(a)(22) of the Immigration and Nation-***
11 ***ality Act (8 U.S.C. 1101(a)(22)) or an alien***
12 ***lawfully admitted for permanent resi-***
13 ***dence in the United States (as defined in***
14 ***section 101(a)(20) of the Immigration and***
15 ***Nationality Act.***

16 ***“(B) An offender is a stateless person***
17 ***whose habitual residence is in the United***
18 ***States.***

19 ***“(C) After the conduct required for the***
20 ***offense occurs an offender is brought into***
21 ***or found in the United States, even if the***
22 ***conduct required for the offense occurs***
23 ***outside the United States.***

24 ***“(D) The offense occurs in whole or in***
25 ***part within the United States.***

1 “(E) *The offense occurs in or affects*
2 *interstate or foreign commerce.*

3 “(F) *An offender aids or abets any per-*
4 *son over whom jurisdiction exists under*
5 *this paragraph in committing an offense*
6 *under subsection (a) or conspires with*
7 *any person over whom jurisdiction exists*
8 *under this paragraph to commit an of-*
9 *fense under subsection (a).”.*

10 (e) *DEFINITION.—Paragraph (4) of section*
11 *2339B(g) of title 18, United States Code, is*
12 *amended to read as follows:*

13 “(4) *the term ‘material support or re-*
14 *sources’ has the same meaning given that*
15 *term in section 2339A;”.*

16 (f) *ADDITIONAL PROVISIONS.—Section 2339B*
17 *of title 18, United States Code, is amended by*
18 *adding at the end the following:*

19 “(h) *PROVISION OF PERSONNEL.—No person*
20 *may be prosecuted under this section in con-*
21 *nection with the term ‘personnel’ unless that*
22 *person has knowingly provided, attempted to*
23 *provide, or conspired to provide a foreign ter-*
24 *rorist organization with one or more individ-*
25 *uals (who may be or include himself) to work*

1 *under that terrorist organization’s direction*
 2 *or control or to organize, manage, supervise,*
 3 *or otherwise direct the operation of that orga-*
 4 *nization. Individuals who act entirely inde-*
 5 *pendently of the foreign terrorist organization*
 6 *to advance its goals or objectives shall not be*
 7 *considered to be working under the foreign ter-*
 8 *rorist organization’s direction and control.*

9 “(i) *RULE OF CONSTRUCTION.—Nothing in*
 10 *this section shall be construed or applied so as*
 11 *to abridge the exercise of rights guaranteed*
 12 *under the First Amendment to the Constitution*
 13 *of the United States.”.*

14 *SEC. 2044. FINANCING OF TERRORISM.*

15 (a) *FINANCING TERRORISM.—Section*
 16 *2339c(c)(2) of title 18, United States Code, is*
 17 *amended—*

18 (1) *by striking “, resources, or funds”*
 19 *and inserting “or resources, or any funds*
 20 *or proceeds of such funds”;*

21 (2) *in subparagraph (A), by striking*
 22 *“were provided” and inserting “are to be*
 23 *provided, or knowing that the support or*
 24 *resources were provided,”; and*

25 (3) *in subparagraph (B)—*

1 (A) *by striking “or any proceeds of*
2 *such funds”; and*

3 (B) *by striking “were provided or*
4 *collected” and inserting “are to be*
5 *provided or collected, or knowing that*
6 *the funds were provided or collected,”.*

7 (b) *DEFINITIONS.—Section 2339c(e) of title*
8 *18, United States Code, is amended—*

9 (1) *by striking “and” at the end of*
10 *paragraph (12);*

11 (2) *by redesignating paragraph (13)*
12 *as paragraph (14); and*

13 (3) *by inserting after paragraph (12)*
14 *the following:*

15 *“(13) the term ‘material support or re-*
16 *sources’ has the same meaning given that*
17 *term in section 2339B(g)(4) of this title;*
18 *and”.*

19 ***Subtitle D—Weapons of Mass De-***
20 ***struction Prohibition Improve-***
21 ***ment Act of 2004***

22 ***SEC. 2051. SHORT TITLE.***

23 *This subtitle may be cited as the “Weapons*
24 *of Mass Destruction Prohibition Improvement*
25 *Act of 2004”.*

1 *SEC. 2052. WEAPONS OF MASS DESTRUCTION.*

2 *(a) EXPANSION OF JURISDICTIONAL BASES*
3 *AND SCOPE.—Section 2332a of title 18, United*
4 *States Code, is amended—*

5 *(1) so that paragraph (2) of subsection*
6 *(a) reads as follows:*

7 *“(2) against any person or property*
8 *within the United States, and*

9 *“(A) the mail or any facility of*
10 *interstate or foreign commerce is used*
11 *in furtherance of the offense;*

12 *“(B) such property is used in inter-*
13 *state or foreign commerce or in an ac-*
14 *tivity that affects interstate or foreign*
15 *commerce;*

16 *“(C) any perpetrator travels in or*
17 *causes another to travel in interstate*
18 *or foreign commerce in furtherance of*
19 *the offense; or*

20 *“(D) the offense, or the results of*
21 *the offense, affect interstate or foreign*
22 *commerce, or, in the case of a threat,*
23 *attempt, or conspiracy, would have af-*
24 *ected interstate or foreign com-*
25 *merce;”;*

1 (2) *in paragraph (3) of subsection (a),*
2 *by striking the comma at the end and in-*
3 *serting “; or”;*

4 (3) *in subsection (a), by adding the*
5 *following at the end:*

6 “(4) *against any property within the*
7 *United States that is owned, leased, or*
8 *used by a foreign government,”;*

9 (4) *at the end of subsection (c)(1), by*
10 *striking “and”;*

11 (5) *in subsection (c)(2), by striking the*
12 *period at the end and inserting “; and”;*
13 *and*

14 (6) *in subsection (c), by adding at the*
15 *end the following:*

16 “(3) *the term ‘property’ includes all*
17 *real and personal property.”.*

18 (b) *RESTORATION OF THE COVERAGE OF*
19 *CHEMICAL WEAPONS.—Section 2332a of title 18,*
20 *United States Code, as amended by subsection*
21 *(a), is further amended—*

22 (1) *in the section heading, by striking*
23 *“certain”;*

1 (2) *in subsection (a), by striking*
2 *“(other than a chemical weapon as that*
3 *term is defined in section 229F)”*; and

4 (3) *in subsection (b), by striking*
5 *“(other than a chemical weapon (as that*
6 *term is defined in section 229F))”*.

7 (c) *EXPANSION OF CATEGORIES OF RE-*
8 *STRICTED PERSONS SUBJECT TO PROHIBITIONS*
9 *RELATING TO SELECT AGENTS.—Section*
10 *175b(d)(2) of title 18, United States Code, is*
11 *amended—*

12 (1) *in subparagraph (G) by—*

13 (A) *inserting “(i)” after “(G)”*;

14 (B) *inserting “, or (ii) acts for or*
15 *on behalf of, or operates subject to the*
16 *direction or control of, a government*
17 *or official of a country described in*
18 *this subparagraph” after “terrorism”*;
19 *and*

20 (C) *striking “or” after the semi-*
21 *colon.*

22 (2) *in subparagraph (H) by striking*
23 *the period and inserting “; or”*; and

24 (3) *by adding at the end the following*
25 *new subparagraph:*

1 “(I) is a member of, acts for or on
2 behalf of, or operates subject to the di-
3 rection or control of, a terrorist orga-
4 nization as defined in section
5 212(a)(3)(B)(vi) of the Immigration
6 and Nationality Act (8 U.S.C.
7 1182(a)(3)(B)(vi)).”.

8 (d) CONFORMING AMENDMENT TO REGULA-
9 TIONS.—

10 (1) Section 175b(a)(1) of title 18,
11 United States Code, is amended by strik-
12 ing “as a select agent in Appendix A” and
13 all that follows and inserting the fol-
14 lowing: “as a non-overlap or overlap se-
15 lect biological agent or toxin in sections
16 73.4 and 73.5 of title 42, Code of Federal
17 Regulations, pursuant to section 351A of
18 the Public Health Service Act, and is not
19 excluded under sections 73.4 and 73.5 or
20 exempted under section 73.6 of title 42,
21 Code of Federal Regulations.”.

22 (2) The amendment made by para-
23 graph (1) shall take effect at the same
24 time that sections 73.4, 73.5, and 73.6 of

1 *title 42, Code of Federal Regulations, be-*
2 *come effective.*

3 SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF
4 MASS DESTRUCTION THREATS TO THE
5 UNITED STATES.

6 (a) Section 57(b) of the Atomic Energy Act
7 of 1954 (42 U.S.C. 2077(b)) is amended by strik-
8 ing “in the production of any special nuclear
9 material” and inserting “or participate in the
10 development or production of any special nu-
11 clear material or atomic weapon”.

12 (b) Title 18, United States Code, is amend-
13 ed—

14 (1) in the table of sections at the be-
15 ginning of chapter 39, by inserting after
16 the item relating to section 831 the fol-
17 lowing:

 “832. Participation in nuclear and weapons of mass destruction
 threats to the United States.”;

18 (2) by inserting after section 831 the
19 following:

20 “§ 832. Participation in nuclear and weapons of mass
21 destruction threats to the United States

22 “(a) Whoever, within the United States or
23 subject to the jurisdiction of the United States,
24 willfully participates in or provides material

1 *support or resources (as defined in section*
2 *2339A) to a nuclear weapons program or other*
3 *weapons of mass destruction program of a for-*
4 *ign terrorist power, or attempts or conspires*
5 *to do so, shall be imprisoned for not more than*
6 *20 years.*

7 *“(b) There is extraterritorial Federal juris-*
8 *diction over an offense under this section.*

9 *“(c) As used in this section—*

10 *“(1) ‘nuclear weapons program’ means*
11 *a program or plan for the development,*
12 *acquisition, or production of any nuclear*
13 *weapon or weapons;*

14 *“(2) ‘weapons of mass destruction pro-*
15 *gram’ means a program or plan for the*
16 *development, acquisition, or production of*
17 *any weapon or weapons of mass destruc-*
18 *tion (as defined in section 2332a(c));*

19 *“(3) ‘foreign terrorist power’ means a*
20 *terrorist organization designated under*
21 *section 219 of the Immigration and Na-*
22 *tionality Act, or a state sponsor of ter-*
23 *rorism designated under section 6(j) of*
24 *the Export Administration Act of 1979 or*

1 *section 620A of the Foreign Assistance Act*
 2 *of 1961; and*

3 *“(4) ‘nuclear weapon’ means any*
 4 *weapon that contains or uses nuclear ma-*
 5 *terial as defined in section 831(f)(1).”;* and

6 *(3) in section 2332b(g)(5)(B)(i), by in-*
 7 *serting after “nuclear materials),” the fol-*
 8 *lowing: “832 (relating to participation in*
 9 *nuclear and weapons of mass destruction*
 10 *threats to the United States)”.*

11 ***Subtitle E—Money Laundering and***
 12 ***Terrorist Financing***

13 ***CHAPTER 1—FUNDING TO COMBAT FINAN-***
 14 ***CIAL CRIMES INCLUDING TERRORIST***
 15 ***FINANCING***

16 ***SEC. 2101. ADDITIONAL AUTHORIZATION FOR FINCEN.***

17 *Subsection (d) of section 310 of title 31,*
 18 *United States Code, is amended—*

19 *(1) by striking “APPROPRIATIONS.—*
 20 *There are authorized” and inserting “AP-*
 21 *PROPRIATIONS.—*

22 *“(1) IN GENERAL.—There are author-*
 23 *ized”; and*

24 *(2) by adding at the end the following*
 25 *new paragraph:*

1 **“(2) AUTHORIZATION FOR FUNDING KEY**
2 **TECHNOLOGICAL IMPROVEMENTS IN MISSION-**
3 **CRITICAL FINCEN SYSTEMS.—***There are au-*
4 *thorized to be appropriated for fiscal year*
5 *2005 the following amounts, which are au-*
6 *thorized to remain available until ex-*
7 *pend:*

8 **“(A) BSA DIRECT.—***For techno-*
9 *logical improvements to provide au-*
10 *thorized law enforcement and finan-*
11 *cial regulatory agencies with Web-*
12 *based access to FinCEN data, to fully*
13 *develop and implement the highly se-*
14 *cure network required under section*
15 *362 of Public Law 107–56 to expedite*
16 *the filing of, and reduce the filing*
17 *costs for, financial institution reports,*
18 *including suspicious activity reports,*
19 *collected by FinCEN under chapter 53*
20 *and related provisions of law, and en-*
21 *able FinCEN to immediately alert fi-*
22 *nancial institutions about suspicious*
23 *activities that warrant immediate and*
24 *enhanced scrutiny, and to provide*
25 *and upgrade advanced information-*

1 *sharing technologies to materially im-*
2 *prove the Government's ability to ex-*
3 *ploit the information in the FinCEN*
4 *databanks, \$16,500,000.*

5 “(B) *ADVANCED ANALYTICAL TECH-*
6 *NOLOGIES.—To provide advanced ana-*
7 *lytical tools needed to ensure that the*
8 *data collected by FinCEN under chap-*
9 *ter 53 and related provisions of law*
10 *are utilized fully and appropriately in*
11 *safeguarding financial institutions*
12 *and supporting the war on terrorism,*
13 *\$5,000,000.*

14 “(C) *DATA NETWORKING MODERNIZA-*
15 *TION.—To improve the telecommuni-*
16 *cations infrastructure to support the*
17 *improved capabilities of the FinCEN*
18 *systems, \$3,000,000.*

19 “(D) *ENHANCED COMPLIANCE CAPA-*
20 *BILITY.—To improve the effectiveness*
21 *of the Office of Compliance in*
22 *FinCEN, \$3,000,000.*

23 “(E) *DETECTION AND PREVENTION*
24 *OF FINANCIAL CRIMES AND TERRORISM.—*
25 *To provide development of, and train-*

*ing in the use of, technology to detect
and prevent financial crimes and ter-
rorism within and without the United
States, \$8,000,000.”.*

**SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES
STRATEGY REAUTHORIZATION.**

(a) PROGRAM.—*Section 5341(a)(2) of title
31, United States Code, is amended by striking
“and 2003,” and inserting “2003, and 2005,”.*

**(b) REAUTHORIZATION OF APPROPRIA-
TIONS.**—*Section 5355 of title 31, United States
Code, is amended by adding at the end the fol-
lowing:*

<i>“2004</i>	<i>\$15,000,000.</i>
<i>“2005</i>	<i>\$15,000,000.”.</i>

**CHAPTER 2—ENFORCEMENT TOOLS TO
COMBAT FINANCIAL CRIMES INCLUD-
ING TERRORIST FINANCING**

**Subchapter A—Money laundering abatement
and financial antiterrorism technical cor-
rections**

SEC. 2111. SHORT TITLE.

*This subchapter may be cited as the
“Money Laundering Abatement and Financial
Antiterrorism Technical Corrections Act of
2004”.*

1 *SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–*
2 *56.*

3 *(a) The heading of title III of Public Law*
4 *107–56 is amended to read as follows:*

5 ***“TITLE III—INTERNATIONAL***
6 ***MONEY LAUNDERING ABATE-***
7 ***MENT AND FINANCIAL***
8 ***ANTITERRORISM ACT OF***
9 ***2001”.***

10 *(b) The table of contents of Public Law*
11 *107–56 is amended by striking the item relat-*
12 *ing to title III and inserting the following new*
13 *item:*

“TITLE III—INTERNATIONAL MONEY LAUNDERING ABATE-
MENT AND FINANCIAL ANTITERRORISM ACT OF 2001”.

14 *(c) Section 302 of Public Law 107–56 is*
15 *amended—*

16 *(1) in subsection (a)(4), by striking the*
17 *comma after “movement of criminal*
18 *funds”;*

19 *(2) in subsection (b)(7), by inserting*
20 *“or types of accounts” after “classes of*
21 *international transactions”; and*

22 *(3) in subsection (b)(10), by striking*
23 *“subchapters II and III” and inserting*
24 *“subchapter II”.*

1 *(d) Section 303(a) of Public Law 107–56 is*
2 *amended by striking “Anti-Terrorist Financ-*
3 *ing Act” and inserting “Financial*
4 *Antiterrorism Act”.*

5 *(e) The heading for section 311 of Public*
6 *Law 107–56 is amended by striking “OR INTER-*
7 *NATIONAL TRANSACTIONS” and inserting “INTER-*
8 *NATIONAL TRANSACTIONS, OR TYPES OF AC-*
9 *COUNTS”.*

10 *(f) Section 314 of Public Law 107–56 is*
11 *amended—*

12 *(1) in paragraph (1)—*

13 *(A) by inserting a comma after*
14 *“organizations engaged in”; and*

15 *(B) by inserting a comma after*
16 *“credible evidence of engaging in”;*

17 *(2) in paragraph (2)(A)—*

18 *(A) by striking “and” after “non-*
19 *governmental organizations,”; and*

20 *(B) by inserting a comma after*
21 *“unwittingly involved in such fi-*
22 *nances”;*

23 *(3) in paragraph (3)(A)—*

1 (A) *by striking “to monitor ac-*
2 *counts of” and inserting “monitor ac-*
3 *counts of,”; and*

4 (B) *by striking the comma after*
5 *“organizations identified”; and*

6 (4) *in paragraph (3)(B), by inserting*
7 *“financial” after “size, and nature of the”.*

8 (g) *Section 321 of Public Law 107–56 is*
9 *amended by striking “5312(2)” and inserting*
10 *“5312(a)(2)”.*

11 (h) *Section 325 of Public Law 107–56 is*
12 *amended by striking “as amended by section*
13 *202 of this title,” and inserting “as amended*
14 *by section 352,”.*

15 (i) *Subsections (a)(2) and (b)(2) of section*
16 *327 of Public Law 107–56 are each amended by*
17 *inserting a period after “December 31, 2001”*
18 *and striking all that follows through the pe-*
19 *riod at the end of each such subsection.*

20 (j) *Section 356(c)(4) of Public Law 107–56*
21 *is amended by striking “or business or other*
22 *grantor trust” and inserting “, business trust,*
23 *or other grantor trust”.*

24 (k) *Section 358(e) of Public Law 107–56 is*
25 *amended—*

1 (1) *by striking “Section 123(a)” and*
2 *inserting “That portion of section 123(a)”;*

3 (2) *by striking “is amended to read”*
4 *and inserting “that precedes paragraph*
5 *(1) of such section is amended to read”;*
6 *and*

7 (3) *by striking “.” at the end of such*
8 *section and inserting “—”.*

9 (l) *Section 360 of Public Law 107–56 is*
10 *amended—*

11 (1) *in subsection (a), by inserting*
12 *“the” after “utilization of the funds of”;*
13 *and*

14 (2) *in subsection (b), by striking “at*
15 *such institutions” and inserting “at such*
16 *institution”.*

17 (m) *Section 362(a)(1) of Public Law 107–56*
18 *is amended by striking “subchapter II or III”*
19 *and inserting “subchapter II”.*

20 (n) *Section 365 of Public Law 107–56 is*
21 *amended—*

22 (1) *by redesignating the 2nd of the 2*
23 *subsections designated as subsection (c)*
24 *(relating to a clerical amendment) as sub-*
25 *section (d); and*

1 **(2) by redesignating subsection (f) as**
2 **subsection (e).**

3 **(o) Section 365(d) of Public Law 107–56 (as**
4 **so redesignated by subsection (n) of this sec-**
5 **tion) is amended by striking “section 5332 (as**
6 **added by section 112 of this title)” and insert-**
7 **ing “section 5330”.**

8 **SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**
9 **SIONS OF LAW.**

10 **(a) Section 310(c) of title 31, United States**
11 **Code, is amended by striking “the Network”**
12 **each place such term appears and inserting**
13 **“FinCEN”.**

14 **(b) Section 5312(a)(3)(C) of title 31, United**
15 **States Code, is amended by striking “sections**
16 **5333 and 5316” and inserting “sections 5316**
17 **and 5331”.**

18 **(c) Section 5318(i) of title 31, United States**
19 **Code, is amended—**

20 **(1) in paragraph (3)(B), by inserting a**
21 **comma after “foreign political figure” the**
22 **2nd place such term appears; and**

23 **(2) in the heading of paragraph (4), by**
24 **striking “DEFINITION” and inserting**
25 **“DEFINITIONS”.**

1 ***(d) Section 5318(k)(1)(B) of title 31, United***
2 ***States Code, is amended by striking “section***
3 ***5318A(f)(1)(B)” and inserting “section***
4 ***5318A(e)(1)(B)”.***

5 ***(e) The heading for section 5318A of title***
6 ***31, United States Code, is amended to read as***
7 ***follows:***

8 ***“§ 5318A. Special measures for jurisdictions, financial***
9 ***institutions, international transactions,***
10 ***or types of accounts of primary money***
11 ***laundering concern”.***

12 ***(f) Section 5318A of title 31, United States***
13 ***Code, is amended—***

14 ***(1) in subsection (a)(4)(A), by striking***
15 ***“, as defined in section 3 of the Federal***
16 ***Deposit Insurance Act,” and inserting “(as***
17 ***defined in section 3 of the Federal Deposit***
18 ***Insurance Act)”;***

19 ***(2) in subsection (a)(4)(B)(iii), by***
20 ***striking “or class of transactions” and in-***
21 ***serting “class of transactions, or type of***
22 ***account”;***

23 ***(3) in subsection (b)(1)(A), by striking***
24 ***“or class of transactions to be” and insert-***

1 *ing “class of transactions, or type of ac-*
2 *count to be”; and*

3 *(4) in subsection (e)(3), by inserting*
4 *“or subsection (i) or (j) of section 5318”*
5 *after “identification of individuals under*
6 *this section”.*

7 *(g) Section 5324(b) of title 31, United*
8 *States Code, is amended by striking “5333”*
9 *each place such term appears and inserting*
10 *“5331”.*

11 *(h) Section 5332 of title 31, United States*
12 *Code, is amended—*

13 *(1) in subsection (b)(2), by striking*
14 *“, subject to subsection (d) of this section”;*
15 *and*

16 *(2) in subsection (c)(1), by striking*
17 *“, subject to subsection (d) of this sec-*
18 *tion,”.*

19 *(i) The table of sections for subchapter II*
20 *of chapter 53 of title 31, United States Code,*
21 *is amended by striking the item relating to sec-*
22 *tion 5318A and inserting the following new*
23 *item:*

“5318A. Special measures for jurisdictions, financial institu-
 tions, international transactions, or types of ac-
 counts of primary money laundering concern.”.

1 ***(j) Section 18(w)(3) of the Federal Deposit***
2 ***Insurance Act (12 U.S.C. 1828(w)(3)) is amend-***
3 ***ed by inserting a comma after “agent of such***
4 ***institution”.***

5 ***(k) Section 21(a)(2) of the Federal Deposit***
6 ***Insurance Act (12 U.S.C. 1829b(a)(2)) is***
7 ***amended by striking “recognizes that” and in-***
8 ***serting “recognizing that”.***

9 ***(l) Section 626(e) of the Fair Credit Report-***
10 ***ing Act (15 U.S.C. 1681v(e)) is amended by***
11 ***striking “governmental agency” and inserting***
12 ***“government agency”.***

13 ***SEC. 2114. REPEAL OF REVIEW.***

14 ***Title III of Public Law 107–56 is amended***
15 ***by striking section 303 (31 U.S.C. 5311 note).***

16 ***SEC. 2115. EFFECTIVE DATE.***

17 ***The amendments made by this subchapter***
18 ***to Public Law 107–56, the United States Code,***
19 ***the Federal Deposit Insurance Act, and any***
20 ***other provision of law shall take effect as if***
21 ***such amendments had been included in Public***
22 ***Law 107–56, as of the date of the enactment of***
23 ***such Public Law, and no amendment made by***
24 ***such Public Law that is inconsistent with an***

1 *amendment made by this subchapter shall be*
2 *deemed to have taken effect.*

3 ***Subchapter B—Additional enforcement tools***

4 ***SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECUR-***
5 ***ITY PRINTING.***

6 ***(a) PRODUCTION OF DOCUMENTS.—Section***
7 ***5114(a) of title 31, United States Code (relating***
8 ***to engraving and printing currency and secu-***
9 ***rity documents), is amended—***

10 ***(1) by striking “(a) The Secretary of***
11 ***the Treasury” and inserting:***

12 ***“(a) AUTHORITY TO ENGRAVE AND PRINT.—***

13 ***“(1) IN GENERAL.—The Secretary of the***
14 ***Treasury”; and***

15 ***(2) by adding at the end the following***
16 ***new paragraphs:***

17 ***“(2) ENGRAVING AND PRINTING FOR***
18 ***OTHER GOVERNMENTS.—The Secretary of***
19 ***the Treasury may produce currency, post-***
20 ***age stamps, and other security documents***
21 ***for foreign governments if—***

22 ***“(A) the Secretary of the Treasury***
23 ***determines that such production will***
24 ***not interfere with engraving and***

1 *printing needs of the United States;*
2 *and*

3 *“(B) the Secretary of State deter-*
4 *mines that such production would be*
5 *consistent with the foreign policy of*
6 *the United States.*

7 *“(3) PROCUREMENT GUIDELINES.—Arti-*
8 *cles, material, and supplies procured for*
9 *use in the production of currency, postage*
10 *stamps, and other security documents for*
11 *foreign governments pursuant to para-*
12 *graph (2) shall be treated in the same*
13 *manner as articles, material, and sup-*
14 *plies procured for public use within the*
15 *United States for purposes of title III of*
16 *the Act of March 3, 1933 (41 U.S.C. 10a et*
17 *seq.; commonly referred to as the Buy*
18 *American Act).”.*

19 *(b) REIMBURSEMENT.—Section 5143 of title*
20 *31, United States Code (relating to payment for*
21 *services of the Bureau of Engraving and Print-*
22 *ing), is amended—*

23 *(1) in the first sentence, by inserting*
24 *“or to a foreign government under section*
25 *5114” after “agency”;*

1 (2) *in the second sentence, by inserting*
2 *“and other” after “including administra-*
3 *tive”; and*

4 (3) *in the last sentence, by inserting*
5 *“, and the Secretary shall take such ac-*
6 *tion, in coordination with the Secretary of*
7 *State, as may be appropriate to ensure*
8 *prompt payment by a foreign government*
9 *of any invoice or statement of account*
10 *submitted by the Secretary with respect to*
11 *services rendered under section 5114” be-*
12 *fore the period at the end.*

13 *SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.*

14 (a) *IN GENERAL.—Section 474(a) of title 18,*
15 *United States Code, is amended by inserting*
16 *after the paragraph beginning “Whoever has*
17 *in his control, custody, or possession any*
18 *plate” the following:*

19 *“Whoever, with intent to defraud, has in*
20 *his custody, control, or possession any mate-*
21 *rial that can be used to make, alter, forge or*
22 *counterfeit any obligations and other securi-*
23 *ties of the United States or any part of such*
24 *securities and obligations, except under the*
25 *authority of the Secretary of the Treasury; or”.*

1 **(b) FOREIGN OBLIGATIONS AND SECURI-**
2 **TIES.—Section 481 of title 18, United States**
3 **Code, is amended by inserting after the para-**
4 **graph beginning “Whoever, with intent to de-**
5 **fraud” the following:**

6 **“Whoever, with intent to defraud, has in**
7 **his custody, control, or possession any mate-**
8 **rial that can be used to make, alter, forge or**
9 **counterfeit any obligation or other security of**
10 **any foreign government, bank or corporation;**
11 **or”.**

12 **(c) COUNTERFEIT ACTS.—Section 470 of title**
13 **18, United States Code, is amended by striking**
14 **“or 474” and inserting “474, or 474A”.**

15 **(d) MATERIALS USED IN COUNTERFEITING.—**
16 **Section 474A(b) of title 18, United States Code,**
17 **is amended by striking “any essentially iden-**
18 **tical” and inserting “any thing or material**
19 **made after or in the similitude of any”.**

20 **SEC. 2123. REPORTING OF CROSS-BORDER TRANSMITTAL**
21 **OF FUNDS.**

22 **Section 5318 of title 31, United States Code,**
23 **is amended by adding at the end the following**
24 **new subsection:**

1 “(n) *REPORTING OF CROSS-BORDER TRANS-*
2 *MITTAL OF FUNDS.—*

3 “(1) *IN GENERAL.—Subject to para-*
4 *graph (3), the Secretary shall prescribe*
5 *regulations requiring such financial in-*
6 *stitutions as the Secretary determines to*
7 *be appropriate to report to the Financial*
8 *Crimes Enforcement Network certain*
9 *cross-border electronic transmittals of*
10 *funds relevant to efforts of the Secretary*
11 *against money laundering and terrorist*
12 *financing.*

13 “(2) *FORM AND MANNER OF REPORTS.—*
14 *In prescribing the regulations required*
15 *under paragraph (1), the Secretary shall*
16 *determine the appropriate form, manner,*
17 *content and frequency of filing of the re-*
18 *quired reports.*

19 “(3) *FEASIBILITY REPORT.—Before pre-*
20 *scribing the regulations required under*
21 *paragraph (1), and as soon as is prac-*
22 *ticable after the date of enactment of the*
23 *9/11 Recommendations Implementation*
24 *Act, the Secretary shall delegate to the*
25 *Bank Secrecy Act Advisory Group estab-*

1 *lished by the Secretary the task of pro-*
2 *ducing a report for the Secretary and the*
3 *Congress that—*

4 *“(A) identifies the information in*
5 *cross-border electronic transmittals of*
6 *funds that is relevant to efforts*
7 *against money laundering and ter-*
8 *rorist financing;*

9 *“(B) makes recommendations re-*
10 *garding the appropriate form, man-*
11 *ner, content and frequency of filing of*
12 *the required reports; and*

13 *“(C) identifies the technology nec-*
14 *essary for the Financial Crimes En-*
15 *forcement Network to receive, keep, ex-*
16 *ploit and disseminate information*
17 *from reports of cross-border electronic*
18 *transmittals of funds to law enforce-*
19 *ment and other entities engaged in ef-*
20 *forts against money laundering and*
21 *terrorist financing.*

22 *The report shall be submitted to the Sec-*
23 *retary and the Congress no later than the*
24 *end of the 1-year period beginning on the*
25 *date of enactment of such Act.*

1 **“(4) REGULATIONS.—**

2 **“(A) IN GENERAL.—***Subject to sub-*
3 *paragraph (B), the regulations re-*
4 *quired by paragraph (1) shall be pre-*
5 *scribed in final form by the Secretary,*
6 *in consultation with the Board of Gov-*
7 *ernors of the Federal Reserve System,*
8 *before the end of the 3-year period be-*
9 *ginning on the date of the enactment*
10 *of the 9/11 Recommendations Imple-*
11 *mentation Act.*

12 **“(B) TECHNOLOGICAL FEASIBILITY.—**
13 *No regulations shall be prescribed*
14 *under this subsection before the Sec-*
15 *retary certifies to the Congress that*
16 *the Financial Crimes Enforcement*
17 *Network has the technological systems*
18 *in place to effectively and efficiently*
19 *receive, keep, exploit, and disseminate*
20 *information from reports of cross-bor-*
21 *der electronic transmittals of funds to*
22 *law enforcement and other entities en-*
23 *gaged in efforts against money laun-*
24 *dering and terrorist financing.*

1 **“(5) RECORDKEEPING.—No financial in-**
 2 **stitution required to submit reports on**
 3 **certain cross-border electronic transmit-**
 4 **tals of funds to the Financial Crimes En-**
 5 **forcement Network under this subsection**
 6 **shall be subject to the recordkeeping re-**
 7 **quirement under section 21(b)(3) of the**
 8 **Federal Deposit Insurance Act with re-**
 9 **spect to such transmittals of funds.”.**

10 **SEC. 2124. ENHANCED EFFECTIVENESS OF EXAMINATIONS,**
 11 **INCLUDING ANTI-MONEY LAUNDERING PRO-**
 12 **GRAMS.**

13 **(a) DEPOSITORY INSTITUTIONS AND DEPOSI-**
 14 **TORY INSTITUTION HOLDING COMPANIES.—Sec-**
 15 **tion 10 of the Federal Deposit Insurance Act**
 16 **(12 U.S.C. 1820) is amended by adding at the**
 17 **end the following new subsection:**

18 **“(k) POST-EMPLOYMENT LIMITATIONS ON**
 19 **LEADING BANK EXAMINERS.—**

20 **“(1) IN GENERAL.—In the case of any**
 21 **person who—**

22 **“(A) was an officer or employee**
 23 **(including any special Government**
 24 **employee) of a Federal banking agen-**
 25 **cy or a Federal reserve bank; and**

1 “(B) served 2 or more months dur-
2 ing the final 18 months of such per-
3 son’s employment with such agency or
4 entity as the examiner-in-charge (or a
5 functionally equivalent position) of a
6 depository institution or depository in-
7 stitution holding company with dedi-
8 cated, overall, continuous, and ongo-
9 ing responsibility for the examination
10 (or inspection) and supervision of that
11 depository institution or depository in-
12 stitution holding company,
13 such person may not hold any office, posi-
14 tion, or employment at any such deposi-
15 tory institution or depository institution
16 holding company, become a controlling
17 shareholder in, a consultant for, a joint-
18 venture partner with, or an independent
19 contractor for (including as attorney, ap-
20 praiser, or accountant) any such deposi-
21 tory institution or holding company, or
22 any other company that controls such de-
23 pository institution, or otherwise partici-
24 pate in the conduct of the affairs of any
25 such depository institution or holding

1 *company, during the 1-year period begin-*
2 *ning on such date.*

3 “(2) VIOLATORS SUBJECT TO INDUSTRY-
4 WIDE PROHIBITION ORDERS.—

5 “(A) IN GENERAL.—*In addition to*
6 *any other penalty which may apply,*
7 *whenever the appropriate Federal*
8 *banking agency determines that a per-*
9 *son subject to paragraph (1) has vio-*
10 *lated the prohibition in such para-*
11 *graph with respect to any insured de-*
12 *pository institution or depository insti-*
13 *tution holding company or any other*
14 *company, the agency shall serve a*
15 *written notice or order, in accordance*
16 *with and subject to the provisions of*
17 *section 8(e)(4) for written notices*
18 *under paragraphs (1) or (2) of section*
19 *8(e), upon such person of the agency’s*
20 *intention to—*

21 “(i) *remove such person from*
22 *office in any capacity described in*
23 *paragraph (1); and*

24 “(ii) *prohibit any further par-*
25 *ticipation by such person, in any*

1 *manner, in the conduct of the af-*
2 *fairs of any insured depository in-*
3 *stitution or depository institution*
4 *holding company for a period of 5*
5 *years.*

6 “(B) SCOPE OF PROHIBITION
7 ORDER.—Any person subject to an
8 order issued under this subsection
9 shall be subject to paragraphs (6) and
10 (7) of section 8(e) in the same manner
11 and to the same extent as a person
12 subject to an order issued under such
13 section and subsections (i) and (j) of
14 section 8 and any other provision of
15 this Act applicable to orders issued
16 under subsection (e) or (g) shall apply
17 with respect to such order.

18 “(3) REGULATIONS.—

19 “(A) IN GENERAL.—The Federal
20 banking agencies shall prescribe reg-
21 ulations to implement this subsection,
22 including the manner for determining
23 which persons are referred to in para-
24 graph 1(B) taking into account—

1 “(i) *the manner in which ex-*
2 *aminers and other persons who*
3 *participate in the regulation, ex-*
4 *amination, or monitoring of de-*
5 *pository institutions or depository*
6 *institution holding companies are*
7 *distributed among such institu-*
8 *tions or companies by such agen-*
9 *cy, including the number of exam-*
10 *iners and other persons assigned*
11 *to each institution or holding*
12 *company, the depth and structure*
13 *of any group so assigned within*
14 *such distribution, and the factors*
15 *giving rise to that distribution;*

16 “(ii) *the number of institutions*
17 *or companies each such examiner*
18 *or other person is so involved with*
19 *in any given period of assignment;*

20 “(iii) *the period of time for*
21 *which each such examiner or*
22 *other person is assigned to an in-*
23 *stitution or company, or a group*
24 *of institutions or companies, be-*
25 *fore reassignment;*

1 “(iv) *the size of the institutions*
2 *or holding companies for which*
3 *each such person is responsible*
4 *and the amount of time devoted to*
5 *each such institution or holding*
6 *company during each examina-*
7 *tion period; and*

8 “(v) *such other factors as the*
9 *agency determines to be appro-*
10 *priate.*

11 “(B) *DETERMINATION OF APPLICA-*
12 *BILITY.—The regulations prescribed or*
13 *orders issued under this subpara-*
14 *graph by an appropriate Federal*
15 *banking agency shall include a proc-*
16 *ess, initiated by application or other-*
17 *wise, for determining whether any*
18 *person who ceases to be, or intends to*
19 *cease to be, an examiner of, or a per-*
20 *son having supervisory authority over,*
21 *insured depository institutions or de-*
22 *pository institution holding compa-*
23 *nies for or on behalf of such agency is*
24 *subject to the limitations of this sub-*
25 *section with respect to any particular*

1 *insured depository institution or de-*
2 *pository institution holding company.*

3 *“(C) CONSULTATION.—The Federal*
4 *banking agencies shall consult with*
5 *each other for the purpose of assuring*
6 *that the rules and regulations issued*
7 *by the agencies under subparagraph*
8 *(A) are, to the extent possible, con-*
9 *sistent, comparable, and practicable,*
10 *taking into account any differences in*
11 *the supervisory programs utilized by*
12 *the agencies for the supervision of de-*
13 *pository institutions and depository*
14 *institution holding companies.*

15 *“(4) WAIVER.—A Federal banking*
16 *agency may waive, on a case-by-case basis,*
17 *the restrictions imposed by this subsection*
18 *if—*

19 *“(A) the head of the agency cer-*
20 *tifies in writing that the grant of such*
21 *waiver would be not inconsistent with*
22 *the public interest; and*

23 *“(B) the waiver is provided in ad-*
24 *vance before the person becomes affili-*
25 *ated in any way with the depository*

1 *institution or depository institution*
2 *holding company.*

3 “(5) *DEFINITIONS AND RULES OF CON-*
4 *STRUCTION.—For purposes of this sub-*
5 *section, the following definitions and*
6 *rules shall apply:*

7 “(A) *DEPOSITORY INSTITUTION.—*
8 *The term ‘depository institution’ in-*
9 *cludes an uninsured branch or agency*
10 *of a foreign bank if such branch or*
11 *agency is located in any State.*

12 “(B) *DEPOSITORY INSTITUTION*
13 *HOLDING COMPANY.—The term ‘deposi-*
14 *tory institution holding company’ in-*
15 *cludes any foreign bank or company*
16 *described in section 8(a) of the Inter-*
17 *national Banking Act of 1978.*

18 “(C) *HEAD OF THE AGENCY.—The*
19 *term ‘the head of agency’ means—*

20 “(i) *the Comptroller of the*
21 *Currency, in the case of the Office*
22 *of the Comptroller of the Cur-*
23 *rency;*

24 “(ii) *the Chairman of the*
25 *Board of Governors of the Federal*

1 *Reserve System, in the case of the*
2 *Board of Governors of the Federal*
3 *Reserve System;*

4 “(iii) *the Chairperson of the*
5 *Board of Directors, in the case of*
6 *the Federal Deposit Insurance*
7 *Corporation; and*

8 “(iv) *the Director, in the case*
9 *of the Office of Thrift Supervision.*

10 “(D) *RULE OF CONSTRUCTION FOR*
11 *CONSULTANTS AND INDEPENDENT CON-*
12 *TRACTORS.—A person shall be deemed*
13 *to act as a consultant or independent*
14 *contractor (including as an attorney,*
15 *appraiser, or accountant) for a depos-*
16 *itory institution or a depository hold-*
17 *ing company only if such person di-*
18 *rectly works on matters for, or on be-*
19 *half of, such depository institution or*
20 *depository holding company.*

21 “(E) *APPROPRIATE AGENCY FOR CER-*
22 *TAIN OTHER COMPANIES.—The term ‘ap-*
23 *propriate Federal banking agency’*
24 *means, with respect to a company that*
25 *is not a depository institution or de-*

1 *pository institution holding company,*
2 *the Federal banking agency on whose*
3 *behalf the person described in para-*
4 *graph (1) performed the functions de-*
5 *scribed in paragraph (3).”.*

6 **(b) CREDIT UNIONS.**—Section 206 of the
7 *Federal Credit Union Act (12 U.S.C. 1786) is*
8 *amended by adding at the end the following*
9 *new subsection:*

10 **“(w) POST-EMPLOYMENT LIMITATIONS ON EX-**
11 **AMINERS.**—

12 **“(1) REGULATIONS REQUIRED.**—*The*
13 *Board shall consult with the Federal*
14 *banking agencies and prescribe regula-*
15 *tions imposing the same limitations on*
16 *persons employed by or on behalf of the*
17 *Board as leading examiners of, or func-*
18 *tionally equivalent positions with respect*
19 *to, credit unions as are applicable under*
20 *section 10(k) of the Federal Deposit Insur-*
21 *ance Act, taking into account all the re-*
22 *quirements and factors described in para-*
23 *graphs (3) and (4) of such section.*

24 **“(2) ENFORCEMENT.**—*The Board shall*
25 *issue orders under subsection (g) with re-*

1 *spect to any person who violates any regu-*
2 *lation prescribed pursuant to paragraph*
3 *(1) to—*

4 *“(A) remove such person from of-*
5 *fice in any capacity with respect to a*
6 *credit union; and*

7 *“(B) prohibit any further partici-*
8 *pation by such person, in any manner,*
9 *in the conduct of the affairs of any*
10 *credit union for a period of 5 years.*

11 *“(3) SCOPE OF PROHIBITION ORDER.—*
12 *Any person subject to an order issued*
13 *under this subsection shall be subject to*
14 *paragraphs (5) and (7) of subsection (g)*
15 *in the same manner and to the same ex-*
16 *tent as a person subject to an order issued*
17 *under such subsection and subsection (l)*
18 *and any other provision of this Act appli-*
19 *cable to orders issued under subsection*
20 *(g) shall apply with respect to such*
21 *order.”.*

22 *(c) STUDY OF EXAMINER HIRING AND RETEN-*
23 *TION.—*

24 *(1) STUDY REQUIRED.—The Board of Di-*
25 *rectors of the Federal Deposit Insurance*

1 *Corporation, the Comptroller of the Cur-*
2 *rency, the Director of the Office of Thrift*
3 *Supervision, the Board of Governors of the*
4 *Federal Reserve System, and the National*
5 *Credit Union Administration Board, act-*
6 *ing through the Financial Institutions Ex-*
7 *amination Council, shall conduct a study*
8 *of efforts and proposals for—*

9 *(A) retaining the services of expe-*
10 *rienced and highly qualified exam-*
11 *iners and supervisors already em-*
12 *ployed by such agencies; and*

13 *(B) continuing to attract such ex-*
14 *aminers and supervisors on an-ongo-*
15 *ing basis to the extent necessary to*
16 *fulfill the agencies' obligations to*
17 *maintain the safety and soundness of*
18 *the Nation's depository institutions.*

19 *(2) REPORT.—Before the end of the 1-*
20 *year period beginning on the date of the*
21 *enactment of this Act, the agencies con-*
22 *ducting the study under paragraph (1)*
23 *shall submit a report containing the find-*
24 *ings and conclusions of such agencies*
25 *with respect to such study, together with*

1 *such recommendations for administrative*
2 *or legislative changes as the agencies de-*
3 *termine to be appropriate.*

4 ***Subchapter C—Unlawful Internet Gambling***
5 ***Funding Prohibition***

6 *SEC. 2131. SHORT TITLE.*

7 *This subchapter may be cited as the “Un-*
8 *lawful Internet Gambling Funding Prohibi-*
9 *tion Act”.*

10 *SEC. 2132. FINDINGS.*

11 *The Congress finds as follows:*

12 *(1) Internet gambling is primarily*
13 *funded through personal use of bank in-*
14 *struments, including credit cards and*
15 *wire transfers.*

16 *(2) The National Gambling Impact*
17 *Study Commission in 1999 recommended*
18 *the passage of legislation to prohibit wire*
19 *transfers to Internet gambling sites or the*
20 *banks which represent them.*

21 *(3) Internet gambling is a major cause*
22 *of debt collection problems for insured de-*
23 *pository institutions and the consumer*
24 *credit industry.*

1 ***(4) Internet gambling conducted***
2 ***through offshore jurisdictions has been***
3 ***identified by United States law enforce-***
4 ***ment officials as a significant money***
5 ***laundering vulnerability.***

6 ***SEC. 2133. POLICIES AND PROCEDURES REQUIRED TO PRE-***
7 ***VENT PAYMENTS FOR UNLAWFUL INTERNET***
8 ***GAMBLING.***

9 ***(a) REGULATIONS.—Before the end of the 6-***
10 ***month period beginning on the date of the en-***
11 ***actment of this subchapter, the Federal func-***
12 ***tional regulators shall prescribe regulations***
13 ***requiring any designated payment system to***
14 ***establish policies and procedures reasonably***
15 ***designed to identify and prevent restricted***
16 ***transactions in any of the following ways:***

17 ***(1) The establishment of policies and***
18 ***procedures that—***

19 ***(A) allow the payment system and***
20 ***any person involved in the payment***
21 ***system to identify restricted trans-***
22 ***actions by means of codes in author-***
23 ***ization messages or by other means;***
24 ***and***

1 ***(B) block restricted transactions***
2 ***identified as a result of the policies***
3 ***and procedures developed pursuant to***
4 ***subparagraph (A).***

5 ***(2) The establishment of policies and***
6 ***procedures that prevent the acceptance of***
7 ***the products or services of the payment***
8 ***system in connection with a restricted***
9 ***transaction.***

10 ***(b) REQUIREMENTS FOR POLICIES AND PRO-***
11 ***CEDURES.—In prescribing regulations pursu-***
12 ***ant to subsection (a), the Federal functional***
13 ***regulators shall—***

14 ***(1) identify types of policies and proce-***
15 ***dures, including nonexclusive examples,***
16 ***which would be deemed to be “reasonably***
17 ***designed to identify” and “reasonably de-***
18 ***signed to block” or to “prevent the accept-***
19 ***ance of the products or services” with re-***
20 ***spect to each type of transaction, such as,***
21 ***should credit card transactions be so des-***
22 ***ignated, identifying transactions by a***
23 ***code or codes in the authorization mes-***
24 ***sage and denying authorization of a cred-***

1 *it card transaction in response to an au-*
2 *thorization message;*

3 *(2) to the extent practical, permit any*
4 *participant in a payment system to choose*
5 *among alternative means of identifying*
6 *and blocking, or otherwise preventing the*
7 *acceptance of the products or services of*
8 *the payment system or participant in con-*
9 *nection with, restricted transactions; and*

10 *(3) consider exempting restricted*
11 *transactions from any requirement under*
12 *subsection (a) if the Federal functional*
13 *regulators find that it is not reasonably*
14 *practical to identify and block, or other-*
15 *wise prevent, such transactions.*

16 **(c) COMPLIANCE WITH PAYMENT SYSTEM**
17 **POLICIES AND PROCEDURES.**—*A creditor, credit*
18 *card issuer, financial institution, operator of*
19 *a terminal at which an electronic fund trans-*
20 *fer may be initiated, money transmitting busi-*
21 *ness, or international, national, regional, or*
22 *local network utilized to effect a credit trans-*
23 *action, electronic fund transfer, or money*
24 *transmitting service, or a participant in such*

1 *network, meets the requirement of subsection*

2 *(a) if—*

3 *(1) such person relies on and complies*
4 *with the policies and procedures of a des-*
5 *ignated payment system of which it is a*
6 *member or participant to—*

7 *(A) identify and block restricted*
8 *transactions; or*

9 *(B) otherwise prevent the accept-*
10 *ance of the products or services of the*
11 *payment system, member, or partici-*
12 *pant in connection with restricted*
13 *transactions; and*

14 *(2) such policies and procedures of the*
15 *designated payment system comply with*
16 *the requirements of regulations pre-*
17 *scribed under subsection (a).*

18 *(d) ENFORCEMENT.—*

19 *(1) IN GENERAL.—This section shall be*
20 *enforced by the Federal functional regu-*
21 *lators and the Federal Trade Commission*
22 *under applicable law in the manner pro-*
23 *vided in section 505(a) of the Gramm-*
24 *Leach-Bliley Act.*

1 **(2) FACTORS TO BE CONSIDERED.—In**
2 **considering any enforcement action under**
3 **this subsection against any payment sys-**
4 **tem, or any participant in a payment sys-**
5 **tem that is a creditor, credit card issuer,**
6 **financial institution, operator of a ter-**
7 **minal at which an electronic fund trans-**
8 **fer may be initiated, money transmitting**
9 **business, or international, national, re-**
10 **gional, or local network utilized to effect**
11 **a credit transaction, electronic fund**
12 **transfer, or money transmitting service, or**
13 **a participant in such network, the Fed-**
14 **eral functional regulators and the Fed-**
15 **eral Trade Commission shall consider the**
16 **following factors:**

17 **(A) The extent to which such per-**
18 **son is extending credit or transmit-**
19 **ting funds knowing the transaction is**
20 **in connection with unlawful Internet**
21 **gambling.**

22 **(B) The history of such person in**
23 **extending credit or transmitting**
24 **funds knowing the transaction is in**

1 *connection with unlawful Internet*
2 *gambling.*

3 *(C) The extent to which such per-*
4 *son has established and is maintain-*
5 *ing policies and procedures in compli-*
6 *ance with regulations prescribed*
7 *under this subsection.*

8 *(D) The feasibility that any spe-*
9 *cific remedy prescribed can be imple-*
10 *mented by such person without sub-*
11 *stantial deviation from normal busi-*
12 *ness practice.*

13 *(E) The costs and burdens the spe-*
14 *cific remedy will have on such person.*

15 **SEC. 2134. DEFINITIONS.**

16 *For purposes of this subchapter, the fol-*
17 *lowing definitions shall apply:*

18 **(1) RESTRICTED TRANSACTION.—***The*
19 *term “restricted transaction” means any*
20 *transaction or transmittal to any person*
21 *engaged in the business of betting or wa-*
22 *gering, in connection with the participa-*
23 *tion of another person in unlawful Inter-*
24 *net gambling, of—*

1 ***(A) credit, or the proceeds of cred-***
2 ***it, extended to or on behalf of such***
3 ***other person (including credit ex-***
4 ***tended through the use of a credit***
5 ***card);***

6 ***(B) an electronic fund transfer or***
7 ***funds transmitted by or through a***
8 ***money transmitting business, or the***
9 ***proceeds of an electronic fund trans-***
10 ***fer or money transmitting service,***
11 ***from or on behalf of the other person;***

12 ***(C) any check, draft, or similar in-***
13 ***strument which is drawn by or on be-***
14 ***half of the other person and is drawn***
15 ***on or payable at or through any fi-***
16 ***nancial institution; or***

17 ***(D) the proceeds of any other form***
18 ***of financial transaction as the Fed-***
19 ***eral functional regulators may pre-***
20 ***scribe by regulation which involves a***
21 ***financial institution as a payor or fi-***
22 ***nancial intermediary on behalf of or***
23 ***for the benefit of the other person.***

24 ***(2) BETS OR WAGERS.—The term “bets***
25 ***or wagers”—***

1 ***(A) means the staking or risking***
2 ***by any person of something of value***
3 ***upon the outcome of a contest of oth-***
4 ***ers, a sporting event, or a game sub-***
5 ***ject to chance, upon an agreement or***
6 ***understanding that the person or an-***
7 ***other person will receive something of***
8 ***greater value than the amount staked***
9 ***or risked in the event of a certain out-***
10 ***come;***

11 ***(B) includes the purchase of a***
12 ***chance or opportunity to win a lottery***
13 ***or other prize (which opportunity to***
14 ***win is predominantly subject to***
15 ***chance);***

16 ***(C) includes any scheme of a type***
17 ***described in section 3702 of title 28,***
18 ***United States Code;***

19 ***(D) includes any instructions or***
20 ***information pertaining to the estab-***
21 ***lishment or movement of funds in an***
22 ***account by the bettor or customer with***
23 ***the business of betting or wagering;***
24 ***and***

25 ***(E) does not include—***

1 *(i) any activity governed by the*
2 *securities laws (as that term is de-*
3 *fin ed in section 3(a)(47) of the Se-*
4 *curities Exchange Act of 1934) for*
5 *the purchase or sale of securities*
6 *(as that term is defined in section*
7 *3(a)(10) of such Act);*

8 *(ii) any transaction conducted*
9 *on or subject to the rules of a reg-*
10 *istered entity or exempt board of*
11 *trade pursuant to the Commodity*
12 *Exchange Act;*

13 *(iii) any over-the-counter de-*
14 *rivative instrument;*

15 *(iv) any other transaction*
16 *that—*

17 *(I) is excluded or exempt*
18 *from regulation under the*
19 *Commodity Exchange Act; or*

20 *(II) is exempt from State*
21 *gaming or bucket shop laws*
22 *under section 12(e) of the Com-*
23 *modity Exchange Act or sec-*
24 *tion 28(a) of the Securities Ex-*
25 *change Act of 1934;*

1 (v) *any contract of indemnity*
2 *or guarantee;*

3 (vi) *any contract for insur-*
4 *ance;*

5 (vii) *any deposit or other*
6 *transaction with a depository in-*
7 *stitution (as defined in section*
8 *3(c) of the Federal Deposit Insur-*
9 *ance Act);*

10 (viii) *any participation in a*
11 *simulation sports game or an edu-*
12 *cational game or contest that—*

13 (I) *is not dependent solely*
14 *on the outcome of any single*
15 *sporting event or nonpartici-*
16 *pant's singular individual*
17 *performance in any single*
18 *sporting event;*

19 (II) *has an outcome that*
20 *reflects the relative knowledge*
21 *and skill of the participants*
22 *with such outcome determined*
23 *predominantly by accumu-*
24 *lated statistical results of*
25 *sporting events; and*

1 ***(III) offers a prize or***
2 ***award to a participant that is***
3 ***established in advance of the***
4 ***game or contest and is not de-***
5 ***termined by the number of***
6 ***participants or the amount of***
7 ***any fees paid by those partici-***
8 ***pants; and***

9 ***(ix) any lawful transaction***
10 ***with a business licensed or au-***
11 ***thorized by a State, and for pur-***
12 ***poses of this clause, the term “law-***
13 ***ful transaction” means any trans-***
14 ***action that is lawful under all ap-***
15 ***plicable Federal laws and all ap-***
16 ***plicable State laws of both the***
17 ***State in which the licensed or au-***
18 ***thorized business is located and***
19 ***the State where the bet is initi-***
20 ***ated.***

21 ***(3) DESIGNATED PAYMENT SYSTEM DE-***
22 ***FINED.—The term “designated payment***
23 ***system” means any system utilized by any***
24 ***creditor, credit card issuer, financial in-***
25 ***stitution, operator of a terminal at which***

1 *an electronic fund transfer may be initi-*
2 *ated, money transmitting business, or*
3 *international, national, regional, or local*
4 *network utilized to effect a credit trans-*
5 *action, electronic fund transfer, or money*
6 *transmitting service, or any participant*
7 *in such network, that the Federal func-*
8 *tional regulators determine, by regulation*
9 *or order, could be utilized in connection*
10 *with, or to facilitate, any restricted trans-*
11 *action.*

12 (4) *FEDERAL FUNCTIONAL REGULATOR.—*
13 *The term “Federal functional regulator”*
14 *has the same meaning as in section 509(2)*
15 *of the Gramm-Leach-Bliley Act.*

16 (5) *INTERNET.—The term “Internet”*
17 *means the international computer net-*
18 *work of interoperable packet switched*
19 *data networks.*

20 (6) *UNLAWFUL INTERNET GAMBLING.—*
21 *The term “unlawful Internet gambling”*
22 *means to place, receive, or otherwise*
23 *transmit a bet or wager by any means*
24 *which involves the use, at least in part, of*
25 *the Internet where such bet or wager is*

1 *unlawful under any applicable Federal or*
2 *State law in the State in which the bet or*
3 *wager is initiated, received, or otherwise*
4 *made.*

5 (7) *OTHER TERMS.—*

6 (A) *CREDIT; CREDITOR; AND CREDIT*
7 *CARD.—The terms “credit”, “creditor”,*
8 *and “credit card” have the meanings*
9 *given such terms in section 103 of the*
10 *Truth in Lending Act.*

11 (B) *ELECTRONIC FUND TRANSFER.—*
12 *The term “electronic fund transfer”—*

13 (i) *has the meaning given such*
14 *term in section 903 of the Elec-*
15 *tronic Fund Transfer Act; and*

16 (ii) *includes any fund transfer*
17 *covered by Article 4A of the Uni-*
18 *form Commercial Code, as in ef-*
19 *fect in any State.*

20 (C) *FINANCIAL INSTITUTION.—The*
21 *term “financial institution”—*

22 (i) *has the meaning given such*
23 *term in section 903 of the Elec-*
24 *tronic Fund Transfer Act; and*

1 (ii) *includes any financial in-*
2 *stitution, as defined in section*
3 *509(3) of the Gramm-Leach-Bliley*
4 *Act.*

5 (D) *MONEY TRANSMITTING BUSINESS*
6 *AND MONEY TRANSMITTING SERVICE.—*

7 *The terms “money transmitting busi-*
8 *ness” and “money transmitting serv-*
9 *ice” have the meanings given such*
10 *terms in section 5330(d) of title 31,*
11 *United States Code.*

12 *SEC. 2135. COMMON SENSE RULE OF CONSTRUCTION.*

13 *No provision of this subchapter shall be*
14 *construed as altering, limiting, extending,*
15 *changing the status of, or otherwise affecting*
16 *any law relating to, affecting, or regulating*
17 *gambling within the United States.*

18 *Subtitle F—Criminal History*
19 *Background Checks*

20 *SEC. 2141. SHORT TITLE.*

21 *This subtitle may be cited as the “Criminal*
22 *History Access Means Protection of Infrastruc-*
23 *tures and Our Nation”.*

1 *SEC. 2142. CRIMINAL HISTORY INFORMATION CHECKS.*

2 ***(a) IN GENERAL.—Section 534 of title 28,***
3 ***United States Code, is amended by adding at***
4 ***the end the following:***

5 ***“(f)(1) Under rules prescribed by the Attor-***
6 ***ney General, the Attorney General shall estab-***
7 ***lish and maintain a system for providing to an***
8 ***employer criminal history information that—***

9 ***“(A) is in the possession of the Attor-***
10 ***ney General; and***

11 ***“(B) is requested by an employer as***
12 ***part of an employee criminal history in-***
13 ***vestigation that has been authorized by***
14 ***the State where the employee works or***
15 ***where the employer has their principal***
16 ***place of business;***

17 ***in order to ensure that a prospective employee***
18 ***is suitable for certain employment positions.***

19 ***“(2) The Attorney General shall require***
20 ***that an employer seeking criminal history in-***
21 ***formation of an employee request such infor-***
22 ***mation and submit fingerprints or other bio-***
23 ***metric identifiers as approved by the Attorney***
24 ***General to provide a positive and reliable***
25 ***identification of such prospective employee.***

1 ***“(3) The Director of the Federal Bureau of***
2 ***Investigation may require an employer to pay***
3 ***a reasonable fee for such information.***

4 ***“(4) Upon receipt of fingerprints or other***
5 ***biometric identifiers, the Attorney General***
6 ***shall conduct an Integrated Fingerprint Iden-***
7 ***tification System of the Federal Bureau of In-***
8 ***vestigation (IAFIS) check and provide the re-***
9 ***sults of such check to the requester.***

10 ***“(5) As used in this subsection,***

11 ***“(A) the term ‘criminal history infor-***
12 ***mation’ and ‘criminal history records’ in-***
13 ***cludes—***

14 ***“(i) an identifying description of***
15 ***the individual to whom it pertains;***

16 ***“(ii) notations of arrests, deten-***
17 ***tions, indictments, or other formal***
18 ***criminal charges pertaining to such***
19 ***individual; and***

20 ***“(iii) any disposition to a notation***
21 ***revealed in subparagraph (B), includ-***
22 ***ing acquittal, sentencing, correctional***
23 ***supervision, or release.***

24 ***“(B) the term ‘Integrated Automated***
25 ***Fingerprint Identification System of the***

1 ***Federal Bureau of Investigation (IAFIS)’***
2 ***means the national depository for finger-***
3 ***print, biometric, and criminal history in-***
4 ***formation, through which fingerprints are***
5 ***processed electronically.***

6 ***“(6) Nothing in this subsection shall pre-***
7 ***clude the Attorney General from authorizing***
8 ***or requiring criminal history record checks on***
9 ***individuals employed or seeking employment***
10 ***in positions vital to the Nation’s critical infra-***
11 ***structure or key resources as those terms are***
12 ***defined in section 1016(e) of Public Law 107–***
13 ***56 (42 U.S.C. 5195c(e)) and section 2(9) of the***
14 ***Homeland Security Act of 2002 (6 U.S.C.***
15 ***101(9)).”.***

16 ***(b) REPORT TO CONGRESS.—***

17 ***(1) IN GENERAL.—Not later than 120***
18 ***days after the date of the enactment of***
19 ***this Act, the Attorney General shall report***
20 ***to the appropriate committees of Congress***
21 ***regarding all statutory requirements for***
22 ***criminal history record checks that are***
23 ***required to be conducted by the Depart-***
24 ***ment of Justice or any of its components.***

1 **(2) IDENTIFICATION OF INFORMATION.—**
 2 *The Attorney General shall identify the*
 3 *number of records requested, including*
 4 *the type of information requested, usage*
 5 *of different terms and definitions regard-*
 6 *ing criminal history information, and the*
 7 *variation in fees charged for such infor-*
 8 *mation and who pays such fees.*

9 **(3) RECOMMENDATIONS.—***The Attorney*
 10 *General shall make recommendations for*
 11 *consolidating the existing procedures into*
 12 *a unified procedure consistent with that*
 13 *provided in section 534(f) of title 28,*
 14 *United States Code, as amended by this*
 15 *subtitle.*

16 **Subtitle G—Protection of United**
 17 **States Aviation System From**
 18 **Terrorist Attacks**

19 **SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR**
 20 **OTHER TECHNOLOGY.**

21 **(a) USE OF BIOMETRIC TECHNOLOGY.—***Sec-*
 22 *tion 44903(h) of title 49, United States Code, is*
 23 *amended—*

24 **(1) in paragraph (4)(E) by striking**
 25 **“may provide for” and inserting “shall**

1 *issue, not later than 120 days after the*
2 *date of enactment of paragraph (5), guid-*
3 *ance for”; and*

4 *(2) by adding at the end the following:*

5 *“(5) USE OF BIOMETRIC TECHNOLOGY IN*
6 *AIRPORT ACCESS CONTROL SYSTEMS.—In*
7 *issuing guidance under paragraph (4)(E),*
8 *the Assistant Secretary of Homeland Secu-*
9 *rity (Transportation Security Administra-*
10 *tion), in consultation with representatives*
11 *of the aviation industry, the biometrics in-*
12 *dustry, and the National Institute of*
13 *Standards and Technology, shall estab-*
14 *lish, at a minimum—*

15 *“(A) comprehensive technical and*
16 *operational system requirements and*
17 *performance standards for the use of*
18 *biometrics in airport access control*
19 *systems (including airport perimeter*
20 *access control systems) to ensure that*
21 *the biometric systems are effective, re-*
22 *liable, and secure;*

23 *“(B) a list of products and vendors*
24 *that meet such requirements and*
25 *standards;*

1 “(C) *procedures for implementing*
2 *biometric systems—*

3 “(i) *to ensure that individuals*
4 *do not use an assumed identity to*
5 *enroll in a biometric system; and*

6 “(ii) *to resolve failures to en-*
7 *roll, false matches, and false non-*
8 *matches; and*

9 “(D) *best practices for incor-*
10 *porating biometric technology into*
11 *airport access control systems in the*
12 *most effective manner, including a*
13 *process to best utilize existing airport*
14 *access control systems, facilities, and*
15 *equipment and existing data networks*
16 *connecting airports.*

17 “(6) *USE OF BIOMETRIC TECHNOLOGY*
18 *FOR LAW ENFORCEMENT OFFICER TRAVEL.—*

19 “(A) *IN GENERAL.—Not later than*
20 *120 days after the date of enactment*
21 *of this paragraph, the Assistant Sec-*
22 *retary shall—*

23 “(i) *establish a law enforce-*
24 *ment officer travel credential that*
25 *incorporates biometrics and is*

1 *uniform across all Federal, State,*
2 *and local government law enforce-*
3 *ment agencies;*

4 “(ii) *establish a process by*
5 *which the travel credential will be*
6 *used to verify the identity of a Fed-*
7 *eral, State, or local government*
8 *law enforcement officer seeking to*
9 *carry a weapon on board an air-*
10 *craft, without unnecessarily dis-*
11 *closing to the public that the indi-*
12 *vidual is a law enforcement offi-*
13 *cer;*

14 “(iii) *establish procedures—*

15 “(I) *to ensure that only*
16 *Federal, State, and local gov-*
17 *ernment law enforcement offi-*
18 *cers are issued the travel cre-*
19 *dential;*

20 “(II) *to resolve failures to*
21 *enroll, false matches, and*
22 *false non-matches relating to*
23 *use of the travel credential;*
24 *and*

1 ***“(III) to invalidate any***
2 ***travel credential that is lost,***
3 ***stolen, or no longer authorized***
4 ***for use;***

5 ***“(iv) begin issuance of the***
6 ***travel credential to each Federal,***
7 ***State, and local government law***
8 ***enforcement officer authorized by***
9 ***the Assistant Secretary to carry a***
10 ***weapon on board an aircraft; and***

11 ***“(v) take such other actions***
12 ***with respect to the travel creden-***
13 ***tial as the Secretary considers ap-***
14 ***propriate.***

15 ***“(B) FUNDING.—There are author-***
16 ***ized to be appropriated such sums as***
17 ***may be necessary to carry out this***
18 ***paragraph.***

19 ***“(7) DEFINITIONS.—In this subsection,***
20 ***the following definitions apply:***

21 ***“(A) BIOMETRIC INFORMATION.—The***
22 ***term ‘biometric information’ means***
23 ***the distinct physical or behavioral***
24 ***characteristics that are used for iden-***

1 *tification, or verification of the iden-*
2 *tity, of an individual.*

3 “(B) *BIOMETRICS.*—*The term ‘bio-*
4 *metrics’ means a technology that en-*
5 *ables the automated identification, or*
6 *verification of the identity, of an indi-*
7 *vidual based on biometric informa-*
8 *tion.*

9 “(C) *FAILURE TO ENROLL.*—*The*
10 *term ‘failure to enroll’ means the in-*
11 *ability of an individual to enroll in a*
12 *biometric system due to an insuffi-*
13 *ciently distinctive biometric sample,*
14 *the lack of a body part necessary to*
15 *provide the biometric sample, a system*
16 *design that makes it difficult to pro-*
17 *vide consistent biometric information,*
18 *or other factors.*

19 “(D) *FALSE MATCH.*—*The term*
20 *‘false match’ means the incorrect*
21 *matching of one individual’s biomet-*
22 *ric information to another individ-*
23 *ual’s biometric information by a bio-*
24 *metric system.*

1 “(E) *FALSE NON-MATCH.*—*The term*
2 *‘false non-match’ means the rejection*
3 *of a valid identity by a biometric sys-*
4 *tem.*

5 “(F) *SECURE AREA OF AN AIRPORT.*—
6 *The term ‘secure area of an airport’*
7 *means the sterile area and the Secure*
8 *Identification Display Area of an air-*
9 *port (as such terms are defined in sec-*
10 *tion 1540.5 of title 49, Code of Federal*
11 *Regulations, or any successor regula-*
12 *tion to such section).’.*

13 **(b) *FUNDING FOR USE OF BIOMETRIC TECH-***
14 ***NOLOGY IN AIRPORT ACCESS CONTROL SYS-***
15 ***TEMS.*—**

16 **(1) *GRANT AUTHORITY.*—*Section***
17 ***44923(a)(4) of title 49, United States Code,***
18 ***is amended—***

19 **(A) *by striking “and” at the end of***
20 ***paragraph (3);***

21 **(B) *by redesignating paragraph***
22 ***(4) as paragraph (5); and***

23 **(C) *by inserting after paragraph***
24 ***(3) the following:***

1 “(4) *for projects to implement biomet-*
 2 *ric technologies in accordance with guid-*
 3 *ance issued under section 44903(h)(4)(E);*
 4 *and”.*

5 (2) *AUTHORIZATION OF APPROPRIA-*
 6 *TIONS.—Section 44923(i)(1) of such title is*
 7 *amended by striking “\$250,000,000 for*
 8 *each of fiscal years 2004 through 2007”*
 9 *and inserting “\$250,000,000 for fiscal year*
 10 *2004, \$345,000,000 for fiscal year 2005,*
 11 *and \$250,000,000 for each of fiscal years*
 12 *2006 and 2007”.*

13 *SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-*
 14 *NING.*

15 *Section 44904 of title 49, United States*
 16 *Code, is amended—*

17 (1) *by redesignating subsection (c) as*
 18 *subsection (e); and*

19 (2) *by inserting after subsection (b)*
 20 *the following:*

21 “(c) *TRANSPORTATION SECURITY STRATEGIC*
 22 *PLANNING.—*

23 “(1) *IN GENERAL.—The Secretary of*
 24 *Homeland Security shall prepare and up-*
 25 *date, as needed, a transportation sector*

1 *specific plan and transportation modal*
2 *security plans in accordance with this*
3 *section.*

4 “(2) *CONTENTS.—At a minimum, the*
5 *modal security plan for aviation prepared*
6 *under paragraph (1) shall—*

7 “(A) *set risk-based priorities for*
8 *defending aviation assets;*

9 “(B) *select the most practical and*
10 *cost-effective methods for defending*
11 *aviation assets;*

12 “(C) *assign roles and missions to*
13 *Federal, State, regional, and local au-*
14 *thorities and to stakeholders;*

15 “(D) *establish a damage mitiga-*
16 *tion and recovery plan for the avia-*
17 *tion system in the event of a terrorist*
18 *attack; and*

19 “(E) *include a threat matrix docu-*
20 *ment that outlines each threat to the*
21 *United States civil aviation system*
22 *and the corresponding layers of secu-*
23 *rity in place to address such threat.*

24 “(3) *REPORTS.—Not later than 180*
25 *days after the date of enactment of the*

1 *subsection and annually thereafter, the*
2 *Secretary shall submit to the Committee*
3 *on Transportation and Infrastructure of*
4 *the House of Representatives and the*
5 *Committee on Commerce, Science, and*
6 *Transportation of the Senate a report con-*
7 *taining the plans prepared under para-*
8 *graph (1), including any updates to the*
9 *plans. The report may be submitted in a*
10 *classified format.*

11 *“(d) OPERATIONAL CRITERIA.—Not later*
12 *than 90 days after the date of submission of*
13 *the report under subsection (c)(3), the Assist-*
14 *ant Secretary of Homeland Security (Trans-*
15 *portation Security Administration) shall issue*
16 *operational criteria to protect airport infra-*
17 *structure and operations against the threats*
18 *identified in the plans prepared under sub-*
19 *section (c)(1) and shall approve best practices*
20 *guidelines for airport assets.”.*

21 *SEC. 2173. NEXT GENERATION AIRLINE PASSENGER*
22 *PRESCREENING.*

23 *(a) IN GENERAL.—Section 44903(j)(2) of*
24 *title 49, United States Code, is amended by*
25 *adding at the end the following:*

1 “(C) *NEXT GENERATION AIRLINE PAS-*
2 *SENGER PRESCREENING.—*

3 “(i) *COMMENCEMENT OF TEST-*
4 *ING.—Not later than November 1,*
5 *2004, the Assistant Secretary of*
6 *Homeland Security (Transpor-*
7 *tation Security Administration),*
8 *or the designee of the Assistant*
9 *Secretary, shall commence testing*
10 *of a next generation passenger*
11 *prescreening system that will*
12 *allow the Department of Home-*
13 *land Security to assume the per-*
14 *formance of comparing passenger*
15 *name records to the automatic se-*
16 *lectee and no fly lists, utilizing all*
17 *appropriate records in the consoli-*
18 *dated and integrated terrorist*
19 *watchlist maintained by the Fed-*
20 *eral Government.*

21 “(ii) *ASSUMPTION OF FUNC-*
22 *TION.—Not later than 180 days*
23 *after completion of testing under*
24 *clause (i), the Assistant Secretary,*
25 *or the designee of the Assistant*

1 *Secretary, shall assume the per-*
2 *formance of the passenger*
3 *prescreening function of com-*
4 *paring passenger name records to*
5 *the automatic selectee and no fly*
6 *lists and utilize all appropriate*
7 *records in the consolidated and*
8 *integrated terrorist watchlist*
9 *maintained by the Federal Gov-*
10 *ernment in performing that func-*
11 *tion.*

12 *“(iii) REQUIREMENTS.—In as-*
13 *suming performance of the func-*
14 *tion under clause (i), the Assistant*
15 *Secretary shall—*

16 *“(I) establish a procedure*
17 *to enable airline passengers,*
18 *who are delayed or prohibited*
19 *from boarding a flight be-*
20 *cause the next generation pas-*
21 *senger prescreening system de-*
22 *termined that they might pose*
23 *a security threat, to appeal*
24 *such determination and cor-*

1 *rect information contained in*
2 *the system;*

3 *“(II) ensure that Federal*
4 *Government databases that*
5 *will be used to establish the*
6 *identity of a passenger under*
7 *the system will not produce a*
8 *large number of false*
9 *positives;*

10 *“(III) establish an internal*
11 *oversight board to oversee and*
12 *monitor the manner in which*
13 *the system is being imple-*
14 *mented;*

15 *“(IV) establish sufficient*
16 *operational safeguards to re-*
17 *duce the opportunities for*
18 *abuse;*

19 *“(V) implement substan-*
20 *tial security measures to pro-*
21 *tect the system from unauthor-*
22 *ized access;*

23 *“(VI) adopt policies estab-*
24 *lishing effective oversight of*

1 *the use and operation of the*
2 *system; and*

3 “(VII) *ensure that there*
4 *are no specific privacy con-*
5 *cerns with the technological*
6 *architecture of the system.*

7 “(iv) *PASSENGER NAME*
8 *RECORDS.—Not later than 60 days*
9 *after the completion of the testing*
10 *of the next generation passenger*
11 *prescreening system, the Assistant*
12 *Secretary shall require air car-*
13 *riers to supply to the Assistant*
14 *Secretary the passenger name*
15 *records needed to begin imple-*
16 *menting the next generation pas-*
17 *senger prescreening system.*

18 “(D) *SCREENING OF EMPLOYEES*
19 *AGAINST WATCHLIST.—The Assistant*
20 *Secretary of Homeland Security*
21 *(Transportation Security Administra-*
22 *tion), in coordination with the Sec-*
23 *retary of Transportation and the Ad-*
24 *ministrator of the Federal Aviation*
25 *Administration, shall ensure that in-*

1 *dividuals are screened against all ap-*
2 *propriate records in the consolidated*
3 *and integrated terrorist watchlist*
4 *maintained by the Federal Govern-*
5 *ment before—*

6 *“(i) being certificated by the*
7 *Federal Aviation Administration;*

8 *“(ii) being issued a credential*
9 *for access to the secure area of an*
10 *airport; or*

11 *“(iii) being issued a credential*
12 *for access to the air operations*
13 *area (as defined in section 1540.5*
14 *of title 49, Code of Federal Regula-*
15 *tions, or any successor regulation*
16 *to such section) of an airport.*

17 *“(E) APPEAL PROCEDURES.—The As-*
18 *sistant Secretary shall establish a*
19 *timely and fair process for individuals*
20 *identified as a threat under subpara-*
21 *graph (D) to appeal the determination*
22 *and correct any erroneous informa-*
23 *tion.*

24 *“(F) DEFINITION.—In this para-*
25 *graph, the term ‘secure area of an air-*

1 *port' means the sterile area and the*
2 *Secure Identification Display Area of*
3 *an airport (as such terms are defined*
4 *in section 1540.5 of title 49, Code of*
5 *Federal Regulations, or any successor*
6 *regulation to such section).".*

7 **(b) GAO REPORT.—**

8 **(1) IN GENERAL.—***Not later than 90*
9 *days after the date on which the Assistant*
10 *Secretary of Homeland Security (Trans-*
11 *portation Security Administration) as-*
12 *sumes performance of the passenger*
13 *prescreening function under section*
14 *44903(j)(2)(C)(ii) of title 49, United States*
15 *Code, the Comptroller General shall sub-*
16 *mit to the appropriate congressional com-*
17 *mittees a report on the assumption of*
18 *such function. The report may be sub-*
19 *mitted in a classified format.*

20 **(2) CONTENTS.—***The report under*
21 *paragraph (1) shall address—*

22 **(A)** *whether a system exists in the*
23 *next generation passenger*
24 *prescreening system whereby aviation*
25 *passengers, determined to pose a*

1 *threat and either delayed or prohib-*
2 *ited from boarding their scheduled*
3 *flights by the Transportation Security*
4 *Administration, may appeal such a*
5 *decision and correct erroneous infor-*
6 *mation;*

7 *(B) the sufficiency of identifying*
8 *information contained in passenger*
9 *name records and any government*
10 *databases for ensuring that a large*
11 *number of false positives will not re-*
12 *sult under the next generation pas-*
13 *senger prescreening system in a sig-*
14 *nificant number of passengers being*
15 *treated as a threat mistakenly or in*
16 *security resources being diverted;*

17 *(C) whether the Transportation*
18 *Security Administration stress tested*
19 *the next generation passenger*
20 *prescreening system;*

21 *(D) whether an internal oversight*
22 *board has been established in the De-*
23 *partment of Homeland Security to*
24 *monitor the next generation passenger*
25 *prescreening system;*

1 ***(E) whether sufficient operational***
2 ***safeguards have been established to***
3 ***prevent the opportunities for abuse of***
4 ***the system;***

5 ***(F) whether substantial security***
6 ***measures are in place to protect the***
7 ***passenger prescreening database from***
8 ***unauthorized access;***

9 ***(G) whether policies have been***
10 ***adopted for the effective oversight of***
11 ***the use and operation of the system;***

12 ***(H) whether specific privacy con-***
13 ***cerns still exist with the system; and***

14 ***(I) whether appropriate life cycle***
15 ***cost estimates have been developed,***
16 ***and a benefit and cost analysis has***
17 ***been performed, for the system.***

18 ***SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-***
19 ***TION EQUIPMENT AT AIRPORT SCREENING***
20 ***CHECKPOINTS.***

21 ***(a) NONMETALLIC WEAPONS AND EXPLO-***
22 ***SIVES.—In order to improve security, the Assist-***
23 ***ant Secretary of Homeland Security (Trans-***
24 ***portation Security Administration) shall give***
25 ***priority to developing, testing, improving, and***

1 *deploying technology at screening checkpoints*
2 *at airports that will detect nonmetallic weap-*
3 *ons and explosives on the person of individ-*
4 *uals, in their clothing, or in their carry-on*
5 *baggage or personal property and shall ensure*
6 *that the equipment alone, or as part of an inte-*
7 *grated system, can detect under realistic oper-*
8 *ating conditions the types of nonmetallic*
9 *weapons and explosives that terrorists would*
10 *likely try to smuggle aboard an air carrier air-*
11 *craft.*

12 **(b) STRATEGIC PLAN FOR DEPLOYMENT AND**
13 **USE OF EXPLOSIVE DETECTION EQUIPMENT AT**
14 **AIRPORT SCREENING CHECKPOINTS.—**

15 **(1) IN GENERAL.—***Not later than 90*
16 *days after the date of enactment of this*
17 *Act, the Assistant Secretary shall transmit*
18 *to the appropriate congressional commit-*
19 *tees a strategic plan to promote the opti-*
20 *mal utilization and deployment of explo-*
21 *sive detection systems at airports to screen*
22 *individuals and their carry-on baggage or*
23 *personal property, including walk-*
24 *through explosive detection portals, docu-*
25 *ment scanners, shoe scanners, and any*

1 *other explosive detection equipment for*
2 *use at a screening checkpoint. The plan*
3 *may be transmitted in a classified format.*

4 (2) *CONTENTS.—The strategic plan*
5 *shall include descriptions of the oper-*
6 *ational applications of explosive detection*
7 *equipment at airport screening check-*
8 *points, a deployment schedule and quan-*
9 *tities of equipment needed to implement*
10 *the plan, and funding needs for imple-*
11 *mentation of the plan, including a financ-*
12 *ing plan that provides for leveraging non-*
13 *Federal funding.*

14 *SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-*
15 *RESISTANT CARGO AND BAGGAGE CON-*
16 *TAINERS.*

17 (a) *IN GENERAL.—Beginning not later than*
18 *180 days after the date of enactment of this*
19 *Act, the Assistant Secretary of Homeland Secu-*
20 *rity (Transportation Security Administration)*
21 *shall carry out a pilot program to evaluate the*
22 *use of blast-resistant containers for cargo and*
23 *baggage on passenger aircraft to minimize the*
24 *potential effects of detonation of an explosive*
25 *device.*

1 ***(b) INCENTIVES FOR PARTICIPATION IN PILOT***
2 ***PROGRAM.—***

3 ***(1) IN GENERAL.—As part of the pilot***
4 ***program, the Assistant Secretary shall***
5 ***provide incentives to air carriers to volun-***
6 ***teer to test the use of blast-resistant con-***
7 ***tainers for cargo and baggage on pas-***
8 ***senger aircraft.***

9 ***(2) APPLICATIONS.—To volunteer to***
10 ***participate in the incentive program, an***
11 ***air carrier shall submit to the Assistant***
12 ***Secretary an application that is in such***
13 ***form and contains such information as***
14 ***the Assistant Secretary requires.***

15 ***(3) TYPES OF ASSISTANCE.—Assistance***
16 ***provided by the Assistant Secretary to air***
17 ***carriers that volunteer to participate in***
18 ***the pilot program shall include the use of***
19 ***blast-resistant containers and financial***
20 ***assistance to cover increased costs to the***
21 ***carriers associated with the use and***
22 ***maintenance of the containers, including***
23 ***increased fuel costs.***

24 ***(c) REPORT.—Not later than one year after***
25 ***the date of enactment of this Act, the Assistant***

1 *Secretary shall submit to appropriate congres-*
 2 *sional committees a report on the results of the*
 3 *pilot program.*

4 *(d) AUTHORIZATION OF APPROPRIATIONS.—*
 5 *There are authorized to be appropriated to*
 6 *carry out this section \$2,000,000. Such sums*
 7 *shall remain available until expended.*

8 *SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.*

9 *The Transportation Security Administra-*
 10 *tion shall develop technology to better identify,*
 11 *track, and screen air cargo.*

12 *SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE*
 13 *DETECTION.*

14 *Section 44940 of title 49, United States*
 15 *Code, is amended by adding at the end the fol-*
 16 *lowing:*

17 *“(i) CHECKPOINT SCREENING SECURITY*
 18 *FUND.—*

19 *“(1) ESTABLISHMENT.—There is estab-*
 20 *lished in the Department of Homeland Se-*
 21 *curity a fund to be known as the ‘Check-*
 22 *point Screening Security Fund’.*

23 *“(2) DEPOSITS.—In each of fiscal years*
 24 *2005 and 2006, after amounts are made*
 25 *available under section 44923(h), the next*

1 ***\$30,000,000 derived from fees received***
2 ***under subsection (a)(1) shall be available***
3 ***to be deposited in the Fund.***

4 ***“(3) FEES.—The Secretary of Home-***
5 ***land Security shall impose the fee author-***
6 ***ized by subsection (a)(1) so as to collect at***
7 ***least \$30,000,000 in each of fiscal years***
8 ***2005 and 2006 for deposit into the Fund.***

9 ***“(4) AVAILABILITY OF AMOUNTS.—***
10 ***Amounts in the Fund shall be available***
11 ***for the purchase, deployment, and instal-***
12 ***lation of equipment to improve the ability***
13 ***of security screening personnel at screen-***
14 ***ing checkpoints to detect explosives.”.***

15 ***SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.***

16 ***(a) PILOT PROGRAM.—The Transportation***
17 ***Security Administration shall develop, not***
18 ***later than 120 days after the date of enactment***
19 ***of this Act, and conduct a pilot program to***
20 ***test, integrate, and deploy next generation se-***
21 ***curity checkpoint screening technology at not***
22 ***less than 5 airports in the United States.***

23 ***(b) HUMAN FACTOR STUDIES.— The Admin-***
24 ***istration shall conduct human factors studies***

1 *to improve screener performance as part of the*
2 *pilot program under subsection (a).*

3 *SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT*
4 *DOOR.*

5 *(a) CIVIL PENALTY.—Section 46301(a) of*
6 *title 49, United States Code, is amended by*
7 *adding at the end the following:*

8 *“(6) PENALTY FOR FAILURE TO SECURE*
9 *FLIGHT DECK DOOR.—Any person holding a*
10 *part 119 certificate under part of title 14,*
11 *Code of Federal Regulations, is liable to*
12 *the Government for a civil penalty of not*
13 *more than \$25,000 for each violation, by*
14 *the pilot in command of an aircraft*
15 *owned or operated by such person, of any*
16 *Federal regulation that requires that the*
17 *flight deck door be closed and locked*
18 *when the aircraft is being operated.”.*

19 *(b) TECHNICAL CORRECTIONS.—*

20 *(1) COMPROMISE AND SETOFF FOR FALSE*
21 *INFORMATION.—Section 46302(b) of such*
22 *title is amended by striking “Secretary of*
23 *Transportation” and inserting “Secretary*
24 *of the Department of Homeland Security*

1 *and, for a violation relating to section*
2 *46504, the Secretary of Transportation,”.*

3 (2) *CARRYING A WEAPON.—Section*
4 *46303 of such title is amended—*

5 (A) *in subsection (b) by striking*
6 *“Secretary of Transportation” and in-*
7 *serting “Secretary of Homeland Secu-*
8 *rity”; and*

9 (B) *in subsection (c)(2) by striking*
10 *“Under Secretary of Transportation*
11 *for Security” and inserting “Secretary*
12 *of Homeland Security”.*

13 (3) *ADMINISTRATIVE IMPOSITION OF PEN-*
14 *ALTIES.—Section 46301(d) of such title is*
15 *amended—*

16 (A) *in the first sentence of para-*
17 *graph (2) by striking “46302, 46303,”*
18 *and inserting “46302 (for a violation*
19 *relating to section 46504),”; and*

20 (B) *in the second sentence of para-*
21 *graph (2)—*

22 (i) *by striking “Under Sec-*
23 *retary of Transportation for Secu-*
24 *rity” and inserting “Secretary of*
25 *Homeland Security”; and*

1 (ii) by striking “44909)” and
2 inserting “44909), 46302 (except
3 for a violation relating to section
4 46504), 46303,”;

5 (C) in each of paragraphs (2), (3),
6 and (4) by striking “Under Secretary
7 or” and inserting “Secretary of Home-
8 land Security”; and

9 (D) in paragraph (4)(A) by moving
10 clauses (i), (ii), and (iii) 2 ems to the
11 left.

12 SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.

13 *The Director of the Federal Air Marshal*
14 *Service of the Department of Homeland Secu-*
15 *rity shall continue to develop operational ini-*
16 *tatives to protect the anonymity of Federal air*
17 *marshals.*

18 SEC. 2181. FEDERAL LAW ENFORCEMENT IN-FLIGHT counter-
19 terrorism TRAINING.

20 *The Assistant Secretary for Immigration*
21 *and Customs Enforcement and the Director of*
22 *Federal Air Marshal Service of the Depart-*
23 *ment of Homeland Security, in coordination*
24 *with the Assistant Secretary of Homeland Se-*
25 *curity (Transportation Security Administra-*

1 *tion), shall make available appropriate in-*
2 *flight counterterrorism procedures and tactics*
3 *training to Federal law enforcement officers*
4 *who fly while on duty.*

5 *SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-*
6 *RIAGE PILOT PROGRAM.*

7 *(a) IN GENERAL.—Not later than 90 days*
8 *after the date of enactment of this Act, the As-*
9 *sistant Secretary of Homeland Security*
10 *(Transportation Security Administration)*
11 *shall implement a pilot program to allow pi-*
12 *lots participating in the Federal flight deck of-*
13 *ficer program to transport their firearms on*
14 *their persons. The Assistant Secretary may*
15 *prescribe any training, equipment, or proce-*
16 *dures that the Assistant Secretary determines*
17 *necessary to ensure safety and maximize weap-*
18 *on retention.*

19 *(b) REVIEW.—Not later than 1 year after the*
20 *date of initiation of the pilot program, the As-*
21 *sistant Secretary shall conduct a review of the*
22 *safety record of the pilot program and trans-*
23 *mit a report on the results of the review to the*
24 *appropriate congressional committees.*

1 (c) *OPTION.—If the Assistant Secretary as*
2 *part of the review under subsection (b) deter-*
3 *mines that the safety level obtained under the*
4 *pilot program is comparable to the safety level*
5 *determined under existing methods of pilots*
6 *carrying firearms on aircraft, the Assistant*
7 *Secretary shall allow all pilots participating*
8 *in the Federal flight deck officer program the*
9 *option of carrying their firearm on their per-*
10 *son subject to such requirements as the Assist-*
11 *ant Secretary determines appropriate.*

12 *SEC. 2183. REGISTERED TRAVELER PROGRAM.*

13 *The Transportation Security Administra-*
14 *tion shall expedite implementation of the reg-*
15 *istered traveler program.*

16 *SEC. 2184. WIRELESS COMMUNICATION.*

17 (a) *STUDY.—The Transportation Security*
18 *Administration, in consultation with the Fed-*
19 *eral Aviation Administration, shall conduct a*
20 *study to determine the viability of providing*
21 *devices or methods, including wireless meth-*
22 *ods, to enable a flight crew to discreetly notify*
23 *the pilot in the case of a security breach or*
24 *safety issue occurring in the cabin.*

1 ***(b) MATTERS TO BE CONSIDERED.—In con-***
2 ***ducting the study, the Transportation Security***
3 ***Administration and the Federal Aviation Ad-***
4 ***ministration shall consider technology that is***
5 ***readily available and can be quickly inte-***
6 ***grated and customized for use aboard aircraft***
7 ***for flight crew communication.***

8 ***(c) REPORT.—Not later than 180 days after***
9 ***the date of enactment of this Act, the Trans-***
10 ***portation Security Administration shall sub-***
11 ***mit to the appropriate congressional commit-***
12 ***tees a report on the results of the study.***

13 ***SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.***

14 ***Not later than 6 months after the date of***
15 ***enactment of this Act, the Assistant Secretary***
16 ***of Homeland Security (Transportation Secu-***
17 ***rity Administration) shall transmit to the ap-***
18 ***propriate congressional committees a report***
19 ***on the costs and benefits associated with the***
20 ***use of secondary flight deck barriers and***
21 ***whether the use of such barriers should be***
22 ***mandated for all air carriers. The Assistant***
23 ***Secretary may transmit the report in a classi-***
24 ***fied format.***

1 *SEC. 2186. EXTENSION.*

2 *Section 48301(a) of title 49, United States*
3 *Code, is amended by striking “and 2005” and*
4 *inserting “2005, and 2006”.*

5 *SEC. 2187. PERIMETER SECURITY.*

6 *(a) REPORT.—Not later than 180 days after*
7 *the date of enactment of this Act, the Assistant*
8 *Secretary of Homeland Security (Transpor-*
9 *tation Security Administration), in consulta-*
10 *tion with airport operators and law enforce-*
11 *ment authorities, shall develop and submit to*
12 *the appropriate congressional committee a re-*
13 *port on airport perimeter security. The report*
14 *may be submitted in a classified format.*

15 *(b) CONTENTS.—The report shall include—*

16 *(1) an examination of the feasibility of*
17 *access control technologies and proce-*
18 *dures, including the use of biometrics and*
19 *other methods of positively identifying in-*
20 *dividuals prior to entry into secure areas*
21 *of airports, and provide best practices for*
22 *enhanced perimeter access control tech-*
23 *niques; and*

24 *(2) an assessment of the feasibility of*
25 *physically screening all individuals prior*
26 *to entry into secure areas of an airport*

1 *and additional methods for strengthening*
2 *the background vetting process for all in-*
3 *dividuals credentialed to gain access to*
4 *secure areas of airports.*

5 *SEC. 2188. DEFINITIONS.*

6 *In this title, the following definitions*
7 *apply:*

8 (1) *APPROPRIATE CONGRESSIONAL COM-*
9 *MITTEE.—The term “appropriate congres-*
10 *sional committees” means the Committee*
11 *on Transportation and Infrastructure of*
12 *the House of Representatives and the*
13 *Committee on Commerce, Science, and*
14 *Transportation of the Senate.*

15 (2) *AIR CARRIER.—The term “air car-*
16 *rier” has the meaning such term has*
17 *under section 40102 of title 49, United*
18 *States Code.*

19 (3) *SECURE AREA OF AN AIRPORT.—The*
20 *term “secure area of an airport” means*
21 *the sterile area and the Secure Identifica-*
22 *tion Display Area of an airport (as such*
23 *terms are defined in section 1540.5 of title*
24 *49, Code of Federal Regulations, or any*
25 *successor regulation to such section).*

1 ***Subtitle H—Other Matters***

2 ***SEC. 2191. GRAND JURY INFORMATION SHARING.***

3 ***(a) RULE AMENDMENTS.—Rule 6(e) of the***
4 ***Federal Rules of Criminal Procedure is***
5 ***amended—***

6 ***(1) in paragraph (3)—***

7 ***(A) in subparagraph (A)(ii), by***
8 ***striking “or state subdivision or of an***
9 ***Indian tribe” and inserting “, state***
10 ***subdivision, Indian tribe, or foreign***
11 ***government”;***

12 ***(B) in subparagraph (D)—***

13 ***(i) by inserting after the first***
14 ***sentence the following: “An attor-***
15 ***ney for the government may also***
16 ***disclose any grand-jury matter in-***
17 ***volving a threat of actual or po-***
18 ***tential attack or other grave hos-***
19 ***tile acts of a foreign power or an***
20 ***agent of a foreign power, domestic***
21 ***or international sabotage, domes-***
22 ***tic or international terrorism, or***
23 ***clandestine intelligence gathering***
24 ***activities by an intelligence serv-***
25 ***ice or network of a foreign power***

1 *or by an agent of a foreign power,*
2 *within the United States or else-*
3 *where, to any appropriate Fed-*
4 *eral, State, state subdivision, In-*
5 *Indian tribal, or foreign government*
6 *official for the purpose of pre-*
7 *venting or responding to such a*
8 *threat.”; and*

9 *(ii) in clause (i)—*

10 *(I) by striking “federal”;*
11 *and*

12 *(II) by adding at the end*
13 *the following: “Any State, state*
14 *subdivision, Indian tribal, or*
15 *foreign government official*
16 *who receives information*
17 *under Rule 6(e)(3)(D) may use*
18 *the information only con-*
19 *sistent with such guidelines as*
20 *the Attorney General and the*
21 *National Intelligence Director*
22 *shall jointly issue.”; and*
23 *(C) in subparagraph (E)—*

1 *(i) by redesignating clauses*
2 *(iii) and (iv) as clauses (iv) and*
3 *(v), respectively;*

4 *(ii) by inserting after clause*
5 *(ii) the following:*

6 *“(iii) at the request of the gov-*
7 *ernment, when sought by a foreign*
8 *court or prosecutor for use in an*
9 *official criminal investigation;”;*
10 *and*

11 *(iii) in clause (iv), as redesign-*
12 *ated—*

13 *(I) by striking “state or In-*
14 *dian tribal” and inserting*
15 *“State, Indian tribal, or for-*
16 *eign”; and*

17 *(II) by striking “or Indian*
18 *tribal official” and inserting*
19 *“Indian tribal, or foreign gov-*
20 *ernment official”; and*

21 *(2) in paragraph (7), by inserting “, or*
22 *of guidelines jointly issued by the Attorney*
23 *General and Director of Central Intel-*
24 *ligence pursuant to Rule 6,” after “Rule*
25 *6”.*

1 **(b) CONFORMING AMENDMENT.—Section**
2 **203(c) of Public Law 107–56 (18 U.S.C. 2517**
3 **note) is amended by striking “Rule**
4 **6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule**
5 **6(e)(3)(D)”.**

6 **SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**
7 **TELLIGENCE DATA SYSTEM.**

8 **(a) FINDINGS.—The Congress finds as fol-**
9 **lows:**

10 **(1) The interoperable electronic data**
11 **system know as the “Chimera system”,**
12 **and required to be developed and imple-**
13 **mented by section 202(a)(2) of the En-**
14 **hanced Border Security and Visa Entry**
15 **Reform Act of 2002 (8 U.S.C. 1722(a)(2)),**
16 **has not in any way been implemented.**

17 **(2) Little progress has been made**
18 **since the enactment of such Act with re-**
19 **gard to establishing a process to connect**
20 **existing trusted systems operated inde-**
21 **pendently by the respective intelligence**
22 **agencies.**

23 **(3) It is advisable, therefore, to assign**
24 **such responsibility to the National Intel-**
25 **ligence Director.**

1 ***(4) The National Intelligence Director***
2 ***should, pursuant to the amendments***
3 ***made by subsection (c), begin systems***
4 ***planning immediately upon assuming of-***
5 ***fice to deliver an interim system not later***
6 ***than 1 year after the date of the enact-***
7 ***ment of this Act, and to deliver the fully***
8 ***functional Chimera system not later than***
9 ***September 11, 2007.***

10 ***(5) Both the interim system, and the***
11 ***fully functional Chimera system, should***
12 ***be designed so that intelligence officers,***
13 ***Federal law enforcement agencies (as de-***
14 ***fin ed in section 2 of such Act (8 U.S.C.***
15 ***1701)), operational counter-terror support***
16 ***center personnel, consular officers, and***
17 ***Department of Homeland Security en-***
18 ***forcement officers have access to them.***

19 ***(b) PURPOSES.—The purposes of this sec-***
20 ***tion are as follows:***

21 ***(1) To provide the National Intel-***
22 ***ligence Director with the necessary au-***
23 ***thority and resources to establish both an***
24 ***interim data system and, subsequently, a***
25 ***fully functional Chimera system, to collect***

1 *and share intelligence and operational*
2 *information with the intelligence commu-*
3 *nity (as defined in section 3(4) of the Na-*
4 *tional Security Act of 1947 (50 U.S.C.*
5 *401a(4)).*

6 *(2) To require the National Intel-*
7 *ligence Director to establish a state-of-the-*
8 *art Chimera system with both biometric*
9 *identification and linguistic capabilities*
10 *satisfying the best technology standards.*

11 *(3) To ensure that the National Intel-*
12 *ligence Center will have a fully functional*
13 *capability, not later than September 11,*
14 *2007, for interoperable data and intel-*
15 *ligence exchange with the agencies of the*
16 *intelligence community (as so defined).*

17 *(c) AMENDMENTS.—*

18 *(1) IN GENERAL.—Title II of the En-*
19 *hanced Border Security and Visa Entry*
20 *Reform Act of 2002 (8 U.S.C. 1721 et seq.)*
21 *is amended—*

22 *(A) in section 202(a)—*

23 *(i) by amending paragraphs*
24 *(1) and (2) to read as follows:*

1 **“(1) INTERIM INTEROPERABLE INTEL-**
2 **LIGENCE DATA EXCHANGE SYSTEM.—Not**
3 **later than 1 year after assuming office,**
4 **the National Intelligence Director shall**
5 **establish an interim interoperable intel-**
6 **ligence data exchange system that will**
7 **connect the data systems operated inde-**
8 **pendently by the entities in the intel-**
9 **ligence community and by the National**
10 **counterterrorism Center, so as to permit**
11 **automated data exchange among all of**
12 **these entities. Immediately upon assuming**
13 **office, the National Intelligence Director**
14 **shall begin the plans necessary to estab-**
15 **lish such interim system.**

16 **“(2) CHIMERA SYSTEM.—Not later than**
17 **September 11, 2007, the National Intel-**
18 **ligence Director shall establish a fully**
19 **functional interoperable law enforcement**
20 **and intelligence electronic data system**
21 **within the National counterterrorism**
22 **Center to provide immediate access to in-**
23 **formation in databases of Federal law en-**
24 **forcement agencies and the intelligence**
25 **community that is necessary to identify**

1 *terrorists, and organizations and individ-*
2 *uals that support terrorism. The system*
3 *established under this paragraph shall*
4 *referred to as the ‘Chimera system’. ”;*

5 *(ii) in paragraph (3)—*

6 *(I) by striking “President”*
7 *and inserting “National Intel-*
8 *ligence Director”; and*

9 *(II) by striking “the data*
10 *system” and inserting “the in-*
11 *terim system described in*
12 *paragraph (1) and the Chi-*
13 *mera system described in*
14 *paragraph (2)”;*

15 *(iii) in paragraph (4)(A), by*
16 *striking “The data system” and all*
17 *that follows through “(2),” and in-*
18 *serting “The interim system de-*
19 *scribed in paragraph (1) and the*
20 *Chimera system described in para-*
21 *graph (2)”;*

22 *(iv) in paragraph (5)—*

23 *(I) in the matter preceding*
24 *subparagraph (A), by striking*
25 *“data system under this sub-*

1 *section” and inserting “Chi-*
2 *mera system described in*
3 *paragraph (2)”;*

4 *(II) in subparagraph (B),*
5 *by striking “and” at the end;*

6 *(III) in subparagraph (C),*
7 *by striking the period at the*
8 *end and inserting “; and”; and*

9 *(IV) by adding at the end*
10 *the following:*

11 *“(D) to any Federal law enforce-*
12 *ment or intelligence officer authorized*
13 *to assist in the investigation, identi-*
14 *fication, or prosecution of terrorists,*
15 *alleged terrorists, individuals sup-*
16 *porting terrorist activities, and indi-*
17 *viduals alleged to support terrorist*
18 *activities. ”; and*

19 *(v) in paragraph (6)—*

20 *(I) by striking “President”*
21 *and inserting “National Intel-*
22 *ligence Director”;*

23 *(II) by striking “the data*
24 *system” and all that follows*
25 *through “(2),” and inserting*

1 *“the interim system described*
2 *in paragraph (1) and the Chi-*
3 *mera system described in*
4 *paragraph (2)”;*

5 *(B) in section 202(b)—*

6 *(i) in paragraph (1), by strik-*
7 *ing “The interoperable” and all*
8 *that follows through “subsection*
9 *(a)” and inserting “the Chimera*
10 *system described in subsection*
11 *(a)(2)”;*

12 *(ii) in paragraph (2), by strik-*
13 *ing “interoperable electronic data-*
14 *base” and inserting “Chimera sys-*
15 *tem described in subsection*
16 *(a)(2)”;* and

17 *(iii) by amending paragraph*
18 *(4) to read as follows:*

19 *“(4) INTERIM REPORTS.—Not later than*
20 *6 months after assuming office, the Na-*
21 *tional Intelligence Director shall submit a*
22 *report to the appropriate committees of*
23 *Congress on the progress in implementing*
24 *each requirement of this section.”;*

25 *(C) in section 204—*

1 *(i) by striking “Attorney Gen-*
 2 *eral” each place such term ap-*
 3 *pears and inserting “National In-*
 4 *telligence Director”;*

5 *(ii) in subsection (d)(1), by*
 6 *striking “Attorney General’s” and*
 7 *inserting “National Intelligence*
 8 *Director’s”;* and

9 *(D) by striking section 203 and re-*
 10 *designating section 204 as section 203.*

11 *(2) CLERICAL AMENDMENT.—The table*
 12 *of contents for the Enhanced Border Secu-*
 13 *rity and Visa Entry Reform Act of 2002 (8*
 14 *U.S.C. 1701 et seq.) is amended—*

15 *(A) by striking the item relating to*
 16 *section 203; and*

17 *(B) by redesignating the item re-*
 18 *lating to section 204 as relating to sec-*
 19 *tion 203.*

20 *SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILITIES*
 21 *OF THE FEDERAL BUREAU OF INVESTIGA-*
 22 *TION.*

23 *(a) FINDINGS.—Consistent with the report*
 24 *of the National Commission on Terrorist At-*
 25 *tacks Upon the United States and to meet the*

1 *intelligence needs of the United States, Con-*
2 *gress makes the following findings:*

3 (1) *The Federal Bureau of Investiga-*
4 *tion has made significant progress in im-*
5 *proving its intelligence capabilities.*

6 (2) *The Federal Bureau of Investiga-*
7 *tion must further enhance and fully insti-*
8 *tutionalize its ability to prevent, preempt,*
9 *and disrupt terrorist threats to our home-*
10 *land, our people, our allies, and our inter-*
11 *ests.*

12 (3) *The Federal Bureau of Investiga-*
13 *tion must collect, process, share, and dis-*
14 *seminate, to the greatest extent permitted*
15 *by applicable law, to the President, the*
16 *Vice President, and other officials in the*
17 *Executive Branch, all terrorism informa-*
18 *tion and other information necessary to*
19 *safeguard our people and advance our*
20 *national and homeland security interests.*

21 (4) *The Federal Bureau of Investiga-*
22 *tion must move towards full and seamless*
23 *coordination and cooperation with all*
24 *other elements of the Intelligence Commu-*
25 *nity, including full participation in, and*

1 *support to, the National counterterrorism*
2 *Center.*

3 *(5) The Federal Bureau of Investiga-*
4 *tion must strengthen its pivotal role in co-*
5 *ordination and cooperation with Federal,*
6 *State, tribal, and local law enforcement*
7 *agencies to ensure the necessary sharing*
8 *of information for counterterrorism and*
9 *criminal law enforcement purposes.*

10 *(6) The Federal Bureau of Investiga-*
11 *tion must perform its vital intelligence*
12 *functions in a manner consistent with*
13 *both with national intelligence priorities*
14 *and respect for privacy and other civil lib-*
15 *erties under the Constitution and laws of*
16 *the United States.*

17 *(b) IMPROVEMENT OF INTELLIGENCE CAPA-*
18 *BILITIES.—The Director of the Federal Bureau*
19 *of Investigation shall establish a comprehen-*
20 *sive intelligence program for—*

21 *(1) intelligence analysis, including re-*
22 *ruitment and hiring of analysts, analyst*
23 *training, priorities and status for anal-*
24 *ysis, and analysis performance measures;*

1 ***(2) intelligence production, including***
2 ***product standards, production priorities,***
3 ***information sharing and dissemination,***
4 ***and customer satisfaction measures;***

5 ***(3) production of intelligence that is***
6 ***responsive to national intelligence re-***
7 ***quirements and priorities, including***
8 ***measures of the degree to which each FBI***
9 ***headquarters and field component is col-***
10 ***lecting and providing such intelligence;***

11 ***(4) intelligence sources, including***
12 ***source validation, new source develop-***
13 ***ment, and performance measures;***

14 ***(5) field intelligence operations, in-***
15 ***cluding staffing and infrastructure, man-***
16 ***agement processes, priorities, and per-***
17 ***formance measures;***

18 ***(6) full and seamless coordination***
19 ***and cooperation with the other compo-***
20 ***nents of the Intelligence Community, con-***
21 ***sistent with their responsibilities; and***

22 ***(7) sharing of FBI intelligence and in-***
23 ***formation across Federal, state, and local***
24 ***governments, with the private sector, and***

1 *with foreign partners as provided by law*
2 *or by guidelines of the Attorney General.*

3 (c) *INTELLIGENCE DIRECTORATE.—The Di-*
4 *rector of the Federal Bureau of Investigation*
5 *shall establish an Intelligence Directorate*
6 *within the FBI. The Intelligence Directorate*
7 *shall have the authority to manage and direct*
8 *the intelligence operations of all FBI head-*
9 *quarters and field components. The Intel-*
10 *ligence Directorate shall have responsibility*
11 *for all components and functions of the FBI*
12 *necessary for—*

13 (1) *oversight of FBI field intelligence*
14 *operations;*

15 (2) *FBI human source development*
16 *and management;*

17 (3) *FBI collection against nationally-*
18 *determined intelligence requirements;*

19 (4) *language services;*

20 (5) *strategic analysis;*

21 (6) *intelligence program and budget*
22 *management; and*

23 (7) *the intelligence workforce.*

24 (d) *NATIONAL SECURITY WORKFORCE.—The*
25 *Director of the Federal Bureau of Investiga-*

1 *tion shall establish a specialized, integrated*
2 *intelligence cadre composed of Special Agents,*
3 *analysts, linguists, and surveillance special-*
4 *ists in a manner which creates and sustains*
5 *within the FBI a workforce with substantial*
6 *expertise in, and commitment to, the intel-*
7 *ligence mission of the FBI. The Director*
8 *shall—*

9 (1) *ensure that these FBI employees*
10 *may make their career, including pro-*
11 *motion to the most senior positions in the*
12 *FBI, within this career track;*

13 (2) *establish intelligence cadre re-*
14 *quirements for—*

15 (A) *training;*

16 (B) *career development and cer-*
17 *tification;*

18 (C) *recruitment, hiring, and selec-*
19 *tion;*

20 (D) *integrating field intelligence*
21 *teams; and*

22 (E) *senior level field management;*

23 (3) *establish intelligence officer cer-*
24 *tification requirements, including re-*
25 *quirements for training courses and as-*

1 *signments to other intelligence, national*
2 *security, or homeland security components*
3 *of the Executive branch, in order to ad-*
4 *vance to senior operational management*
5 *positions in the FBI;*

6 (4) *ensure that the FBI's recruitment*
7 *and training program enhances its ability*
8 *to attract individuals with educational*
9 *and professional backgrounds in intel-*
10 *ligence, international relations, language,*
11 *technology, and other skills relevant to*
12 *the intelligence mission of the FBI;*

13 (5) *ensure that all Special Agents and*
14 *analysts employed by the FBI after the*
15 *date of the enactment of this Act shall re-*
16 *ceive basic training in both criminal jus-*
17 *tice matters and intelligence matters;*

18 (6) *ensure that all Special Agents em-*
19 *ployed by the FBI after the date of the en-*
20 *actment of this Act, to the maximum ex-*
21 *tent practicable, be given an opportunity*
22 *to undergo, during their early service*
23 *with the FBI, meaningful assignments in*
24 *criminal justice matters and in intel-*
25 *ligence matters;*

1 ***(7) ensure that, to the maximum ex-***
2 ***tent practical, Special Agents who spe-***
3 ***cialize in intelligence are afforded the op-***
4 ***portunity to work on intelligence matters***
5 ***over the remainder of their career with***
6 ***the FBI; and***

7 ***(8) ensure that, to the maximum ex-***
8 ***tent practical, analysts are afforded FBI***
9 ***training and career opportunities com-***
10 ***mensurate with the training and career***
11 ***opportunities afforded analysts in other***
12 ***elements of the intelligence community.***

13 ***(e) FIELD OFFICE MATTERS.—The Director***
14 ***of the Federal Bureau of Investigation shall***
15 ***take appropriate actions to ensure the integra-***
16 ***tion of analysis, Special Agents, linguists, and***
17 ***surveillance personnel in FBI field intel-***
18 ***ligence components and to provide effective***
19 ***leadership and infrastructure to support FBI***
20 ***field intelligence components. The Director***
21 ***shall—***

22 ***(1) ensure that each FBI field office***
23 ***has an official at the level of Assistant***
24 ***Special Agent in Charge or higher with***

1 *responsibility for the FBI field intel-*
2 *ligence component; and*

3 (2) *to the extent practicable, provide*
4 *for such expansion of special compart-*
5 *mented information facilities in FBI field*
6 *offices as is necessary to ensure the dis-*
7 *charge by the field intelligence compo-*
8 *nents of the national security and crimi-*
9 *nal intelligence mission of the FBI.*

10 (f) **BUDGET MATTERS.**—*The Director of the*
11 *Federal Bureau of Investigation shall, in con-*
12 *sultation with the Director of the Office of*
13 *Management and Budget, modify the budget*
14 *structure of the FBI in order to organize the*
15 *budget according to its four main programs as*
16 *follows:*

17 (1) *Intelligence.*

18 (2) *counterterrorism and counter-*
19 *intelligence.*

20 (3) *Criminal enterprise/Federal*
21 *crimes.*

22 (4) *Criminal justice services.*

23 (g) **REPORTS.**—

24 (1)(A) *Not later than 180 days after*
25 *the date of the enactment of this Act, and*

1 *every twelve months thereafter, the Direc-*
2 *tor of the Federal Bureau of Investigation*
3 *shall submit to Congress a report on the*
4 *progress made as of the date of such re-*
5 *port in carrying out the requirements of*
6 *this section.*

7 *(B) The Director shall include in the*
8 *first report required by subparagraph (A)*
9 *an estimate of the resources required to*
10 *complete the expansion of special com-*
11 *partmented information facilities to carry*
12 *out the intelligence mission of FBI field*
13 *intelligence components.*

14 *(2) In each annual report required by*
15 *paragraph (1)(A) the director shall in-*
16 *clude—*

17 *(A) a report on the progress made*
18 *by each FBI field office during the pe-*
19 *riod covered by such review in ad-*
20 *dresssing FBI and national intel-*
21 *ligence priorities;*

22 *(B) a report assessing the quali-*
23 *fications, status, and roles of analysts*
24 *at FBI headquarters and in FBI field*
25 *offices; and*

1 (C) *a report on the progress of the*
 2 *FBI in implementing information-*
 3 *sharing principles.*

4 (3) *A report required by this sub-*
 5 *section shall be submitted—*

6 (A) *to each committee of Congress*
 7 *that has jurisdiction over the subject*
 8 *matter of such report; and*

9 (B) *in unclassified form, but may*
 10 *include a classified annex.*

11 ***TITLE III—BORDER SECURITY***
 12 ***AND TERRORIST TRAVEL***

13 ***Subtitle A—Immigration Reform in***
 14 ***the National Interest***

15 ***CHAPTER 1—GENERAL PROVISIONS***

16 ***SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE” EX-***
 17 ***CEPTION FOR CITIZENS.***

18 ***(a) IN GENERAL.—***

19 (1) *IN GENERAL.—Section 215(b) of the*
 20 *Immigration and Nationality Act (8 U.S.C.*
 21 *1185(b)) is amended to read as follows:*

22 ***“(b)(1) Except as otherwise provided in***
 23 ***this subsection, it shall be unlawful for any***
 24 ***citizen of the United States to depart from or***
 25 ***enter, or attempt to depart from or enter, the***

1 *United States unless the citizen bears a valid*
2 *United States passport.*

3 “(2) *Subject to such limitations and excep-*
4 *tions as the President may authorize and pre-*
5 *scribe, the President may waive the applica-*
6 *tion of paragraph (1) in the case of a citizen*
7 *departing the United States to, or entering the*
8 *United States from, foreign contiguous terri-*
9 *tory.*

10 “(3) *The President, if waiving the applica-*
11 *tion of paragraph (1) pursuant to paragraph*
12 *(2), shall require citizens departing the United*
13 *States to, or entering the United States from,*
14 *foreign contiguous territory to bear a docu-*
15 *ment (or combination of documents) des-*
16 *ignated by the Secretary of Homeland Security*
17 *under paragraph (4).*

18 “(4) *The Secretary of Homeland Security—*

19 “(A) *shall designate documents that*
20 *are sufficient to denote identity and citi-*
21 *zenship in the United States such that*
22 *they may be used, either individually or in*
23 *conjunction with another document, to es-*
24 *tablish that the bearer is a citizen or na-*
25 *tional of the United States for purposes of*

1 *lawfully departing from or entering the*
2 *United States; and*

3 *“(B) shall publish a list of those docu-*
4 *ments in the Federal Register.*

5 *“(5) A document may not be designated*
6 *under paragraph (4) (whether alone or in com-*
7 *bination with other documents) unless the Sec-*
8 *retary of Homeland Security determines that*
9 *the document—*

10 *“(A) may be relied upon for the pur-*
11 *poses of this subsection; and*

12 *“(B) may not be issued to an alien un-*
13 *lawfully present in the United States.”.*

14 *(2) EFFECTIVE DATE.—The amendment*
15 *made by paragraph (1) shall take effect*
16 *on October 1, 2006.*

17 *(b) INTERIM RULE.—*

18 *(1) IN GENERAL.—Not later than 60*
19 *days after the date of the enactment of*
20 *this Act, the Secretary of Homeland Secu-*
21 *rity—*

22 *(A) shall designate documents*
23 *that are sufficient to denote identity*
24 *and citizenship in the United States*
25 *such that they may be used, either in-*

1 *dividually or in conjunction with an-*
2 *other document, to establish that the*
3 *bearer is a citizen or national of the*
4 *United States for purposes of lawfully*
5 *departing from or entering the United*
6 *States; and*

7 *(B) shall publish a list of those*
8 *documents in the Federal Register.*

9 *(2) LIMITATION ON PRESIDENTIAL AU-*
10 *THORITY.—Beginning on the date that is 90*
11 *days after the publication described in*
12 *paragraph (1)(B), the President, notwith-*
13 *standing section 215(b) of the Immigra-*
14 *tion and Nationality Act (8 U.S.C.*
15 *1185(b)), may not exercise the President’s*
16 *authority under such section so as to per-*
17 *mit any citizen of the United States to de-*
18 *part from or enter, or attempt to depart*
19 *from or enter, the United States from any*
20 *country other than foreign contiguous ter-*
21 *ritory, unless the citizen bears a document*
22 *(or combination of documents) designated*
23 *under paragraph (1)(A).*

24 *(3) CRITERIA FOR DESIGNATION.—A doc-*
25 *ument may not be designated under para-*

1 *graph (1)(A) (whether alone or in com-*
2 *bination with other documents) unless the*
3 *Secretary of Homeland Security deter-*
4 *mines that the document—*

5 *(A) may be relied upon for the pur-*
6 *poses of this subsection; and*

7 *(B) may not be issued to an alien*
8 *unlawfully present in the United*
9 *States.*

10 *(4) EFFECTIVE DATE.—This subsection*
11 *shall take effect on the date of the enact-*
12 *ment of this Act and shall cease to be ef-*
13 *fective on September 30, 2006.*

14 *SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH RE-*
15 *SPECT TO DOCUMENTATION REQUIREMENTS*
16 *FOR NATIONALS OF FOREIGN CONTIGUOUS*
17 *TERRITORIES AND ADJACENT ISLANDS.*

18 *(a) IN GENERAL.—Section 212(d)(4) of the*
19 *Immigration and Nationality Act (8 U.S.C.*
20 *1182(d)(4)) is amended—*

21 *(1) by striking “Attorney General” and*
22 *inserting “Secretary of Homeland Secu-*
23 *arity”;*

17 **(b) EFFECTIVE DATE.**—*The amendment*
18 *made by subsection (a) shall take effect on De-*
19 *cember 31, 2006.*

22 *The Secretary of Homeland Security, in*
23 *each of fiscal years 2006 through 2010, shall*
24 *increase by not less than 2,000 the number of*
25 *positions for full-time active-duty border pa-*

1 *trol agents within the Department of Home-*
2 *land Security above the number of such posi-*
3 *tions for which funds were allotted for the pre-*
4 *ceding fiscal year.*

5 *SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND CUS-*
6 *TOMS ENFORCEMENT INVESTIGATORS.*

7 *The Secretary of Homeland Security, in*
8 *each of fiscal years 2006 through 2010, shall*
9 *increase by not less than 800 the number of po-*
10 *sitions for full-time active-duty investigators*
11 *within the Department of Homeland Security*
12 *investigating violations of immigration laws*
13 *(as defined in section 101(a)(17) of the Immi-*
14 *gration and Nationality Act (8 U.S.C.*
15 *1101(a)(17)) above the number of such posi-*
16 *tions for which funds were allotted for the pre-*
17 *ceding fiscal year. At least half of these addi-*
18 *tional investigators shall be designated to in-*
19 *vestigate potential violations of section 274A of*
20 *the Immigration and Nationality Act (8 U.S.C*
21 *1324a). Each State shall be allotted at least 3*
22 *of these additional investigators.*

1 **SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

2 ***Section 211 of the Immigration and Na-***
3 ***tionality Act (8 U.S.C. 1181) is amended by***
4 ***adding at the end the following:***

5 ***“(d) For purposes of establishing identity***
6 ***to any Federal employee, an alien present in***
7 ***the United States may present any document***
8 ***issued by the Attorney General or the Secretary***
9 ***of Homeland Security under the authority of***
10 ***one of the immigration laws (as defined in sec-***
11 ***tion 101(a)(17)), or an unexpired lawfully***
12 ***issued foreign passport. Subject to the limita-***
13 ***tions and exceptions in immigration laws (as***
14 ***defined in section 101(a)(17) of the Immigra-***
15 ***tion and Nationality Act (8 U.S.C. 1101(a)(17)),***
16 ***no other document may be presented for those***
17 ***purposes.”.***

18 **SEC. 3006. EXPEDITED REMOVAL.**

19 ***Section 235(b)(1)(A) of the Immigration***
20 ***and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is***
21 ***amended by striking clauses (i) through (iii)***
22 ***and inserting the following:***

23 ***“(i) IN GENERAL.—If an immi-***
24 ***gration officer determines that an***
25 ***alien (other than an alien de-***
26 ***scribed in subparagraph (F)) who***

1 *is arriving in the United States, or*
2 *who has not been admitted or pa-*
3 *roled into the United States and*
4 *has not been physically present in*
5 *the United States continuously for*
6 *the 5-year period immediately*
7 *prior to the date of the determina-*
8 *tion of inadmissibility under this*
9 *paragraph, is inadmissible under*
10 *section 212(a)(6)(C) or 212(a)(7),*
11 *the officer shall order the alien re-*
12 *moved from the United States*
13 *without further hearing or review,*
14 *unless—*

15 *“(I) the alien has been*
16 *charged with a crime, is in*
17 *criminal proceedings, or is*
18 *serving a criminal sentence; or*

19 *“(II) the alien indicates an*
20 *intention to apply for asylum*
21 *under section 208 or a fear of*
22 *persecution and the officer de-*
23 *termines that the alien has*
24 *been physically present in the*

1 *United States for less than 1*
2 *year.*

3 “(ii) *CLAIMS FOR ASYLUM.—If*
4 *an immigration officer determines*
5 *that an alien (other than an alien*
6 *described in subparagraph (F))*
7 *who is arriving in the United*
8 *States, or who has not been admit-*
9 *ted or paroled into the United*
10 *States and has not been physically*
11 *present in the United States con-*
12 *tinuously for the 5-year period im-*
13 *mediately prior to the date of the*
14 *determination of inadmissibility*
15 *under this paragraph, is inadmis-*
16 *sible under section 212(a)(6)(C) or*
17 *212(a)(7), and the alien indicates*
18 *either an intention to apply for*
19 *asylum under section 208 or a fear*
20 *of persecution, the officer shall*
21 *refer the alien for an interview by*
22 *an asylum officer under subpara-*
23 *graph (B) if the officer determines*
24 *that the alien has been physically*

1 *present in the United States for*
2 *less than 1 year.”.*

3 *SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING*
4 *ASYLUM.*

5 *(a) CONDITIONS FOR GRANTING ASYLUM.—*
6 *Section 208(b) of the Immigration and Nation-*
7 *ality Act (8 U.S.C. 1158(b)) is amended—*

8 *(1) in paragraph (1), by striking “The*
9 *Attorney General” and inserting the fol-*
10 *lowing:*

11 *“(A) ELIGIBILITY.—The Secretary of*
12 *Homeland Security or the Attorney*
13 *General”; and*

14 *(2) by adding at the end the following:*

15 *“(B) BURDEN OF PROOF.—The bur-*
16 *den of proof is on the applicant to es-*
17 *tablish that the applicant is a refugee*
18 *within the meaning of section*
19 *101(a)(42)(A). To establish that the*
20 *applicant is a refugee within the*
21 *meaning of this Act, the applicant*
22 *must establish that race, religion, na-*
23 *tionality, membership in a particular*
24 *social group, or political opinion was*
25 *or will be the central motive for perse-*

1 *cuting the applicant. The testimony of*
2 *the applicant may be sufficient to sus-*
3 *tain such burden without corrobor-*
4 *ation, but only if it is credible, is per-*
5 *suasive, and refers to specific facts*
6 *that demonstrate that the applicant is*
7 *a refugee. Where the trier of fact finds*
8 *that it is reasonable to expect corrobo-*
9 *rating evidence for certain alleged*
10 *facts pertaining to the specifics of the*
11 *applicant's claim, such evidence must*
12 *be provided unless a reasonable expla-*
13 *nation is given as to why such infor-*
14 *mation is not provided. The credibility*
15 *determination of the trier of fact may*
16 *be based, in addition to other factors,*
17 *on the demeanor, candor, or respon-*
18 *siveness of the applicant or witness,*
19 *the consistency between the appli-*
20 *cant's or witness's written and oral*
21 *statements, whether or not under*
22 *oath, made at any time to any officer,*
23 *agent, or employee of the United*
24 *States, the internal consistency of*
25 *each such statement, the consistency*

1 *of such statements with the country*
2 *conditions in the country from which*
3 *the applicant claims asylum (as pre-*
4 *sented by the Department of State)*
5 *and any inaccuracies or falsehoods in*
6 *such statements. These factors may be*
7 *considered individually or cumula-*
8 *tively.”.*

9 **(b) STANDARD OF REVIEW FOR ORDERS OF**
10 **REMOVAL.—***Section 242(b)(4) of the Immigra-*
11 *tion and Nationality Act (8 U.S.C. 1252(b)(4))*
12 *is amended by adding after subparagraph (D)*
13 *the following flush language: “No court shall*
14 *reverse a determination made by an adjudi-*
15 *cator with respect to the availability of cor-*
16 *roborating evidence as described in section*
17 *208(b)(1)(B), unless the court finds that a rea-*
18 *sonable adjudicator is compelled to conclude*
19 *that such corroborating evidence is unavail-*
20 *able.”.*

21 **(c) EFFECTIVE DATE.—***The amendment*
22 *made by subsection (b) shall take effect upon*
23 *the date of enactment of this Act and shall*
24 *apply to cases in which the final administra-*

1 *tive removal order was issued before, on, or*
2 *after the date of enactment of this Act.*

3 *SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL DOC-*
4 *UMENTATION.*

5 *(a) LIMITATION ON REVIEW.—Section 221(i)*
6 *of the Immigration and Nationality Act (8*
7 *U.S.C. 1201(i)) is amended by adding at the*
8 *end the following: “There shall be no means of*
9 *administrative or judicial review of a revoca-*
10 *tion under this subsection, and no court or*
11 *other person otherwise shall have jurisdiction*
12 *to consider any claim challenging the validity*
13 *of such a revocation.”.*

14 *(b) CLASSES OF DEPORTABLE ALIENS.—Sec-*
15 *tion 237(a)(1)(B) of the Immigration and Na-*
16 *tionality Act (8 U.S.C. 1227(a)(1)(B)) is amend-*
17 *ed by striking “United States is” and inserting*
18 *the following: “United States, or whose non-*
19 *immigrant visa (or other documentation au-*
20 *thorizing admission into the United States as*
21 *a nonimmigrant) has been revoked under sec-*
22 *tion 221(i), is”.*

23 *(c) REVOCATION OF PETITIONS.—Section 205*
24 *of the Immigration and Nationality Act (8*
25 *U.S.C. 1155) is amended—*

1 ***(1) by striking “Attorney General” and***
2 ***inserting “Secretary of Homeland Secu-***
3 ***rity”; and***

4 ***(2) by striking the final two sentences.***

5 ***(d) EFFECTIVE DATE.—The amendments***
6 ***made by this section shall take effect on the***
7 ***date of the enactment of this Act and shall***
8 ***apply to revocations under sections 205 and***
9 ***221(i) of the Immigration and Nationality Act***
10 ***made before, on, or after such date.***

11 ***SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.***

12 ***(a) IN GENERAL.—Section 242 of the Immi-***
13 ***gration and Nationality Act (8 U.S.C. 1252) is***
14 ***amended—***

15 ***(1) in subsection (a)—***

16 ***(A) in paragraph (2)—***

17 ***(i) in subparagraphs (A), (B),***
18 ***and (C), by inserting “(statutory***
19 ***and nonstatutory), including sec-***
20 ***tion 2241 of title 28, United States***
21 ***Code, or any other habeas corpus***
22 ***provision, and sections 1361 and***
23 ***1651 of title 28, United States***
24 ***Code” after “Notwithstanding any***
25 ***other provision of law”; and***

1 (ii) *by adding at the end the*
2 *following:*

3 “(D) *JUDICIAL REVIEW OF CERTAIN*
4 *LEGAL CLAIMS.—Nothing in this para-*
5 *graph shall be construed as pre-*
6 *cluding consideration by the circuit*
7 *courts of appeals of constitutional*
8 *claims or pure questions of law raised*
9 *upon petitions for review filed in ac-*
10 *cordance with this section. Notwith-*
11 *standing any other provision of law*
12 *(statutory and nonstatutory), includ-*
13 *ing section 2241 of title 28, United*
14 *States Code, or, except as provided in*
15 *subsection (e), any other habeas cor-*
16 *pus provision, and sections 1361 and*
17 *1651 of title 28, United States Code,*
18 *such petitions for review shall be the*
19 *sole and exclusive means of raising*
20 *any and all claims with respect to or-*
21 *ders of removal entered or issued*
22 *under any provision of this Act.”; and*
23 (B) *by adding at the end the fol-*
24 *lowing:*

1 **“(4) CLAIMS UNDER THE UNITED NATIONS**
2 **CONVENTION.—Notwithstanding any other**
3 **provision of law (statutory and nonstatu-**
4 **tory), including section 2241 of title 28,**
5 **United States Code, or any other habeas**
6 **corpus provision, and sections 1361 and**
7 **1651 of title 28, United States Code, a peti-**
8 **tion for review by the circuit courts of ap-**
9 **peals filed in accordance with this section**
10 **is the sole and exclusive means of judicial**
11 **review of claims arising under the United**
12 **Nations Convention Against Torture and**
13 **Other Forms of Cruel, Inhuman, or De-**
14 **grading Treatment or Punishment.**

15 **“(5) EXCLUSIVE MEANS OF REVIEW.—The**
16 **judicial review specified in this sub-**
17 **section shall be the sole and exclusive**
18 **means for review by any court of an order**
19 **of removal entered or issued under any**
20 **provision of this Act. For purposes of this**
21 **title, in every provision that limits or**
22 **eliminates judicial review or jurisdiction**
23 **to review, the terms ‘judicial review’ and**
24 **‘jurisdiction to review’ include habeas**
25 **corpus review pursuant to section 2241 of**

1 *title 28, United States Code, or any other*
2 *habeas corpus provision, sections 1361*
3 *and 1651 of title 28, United States Code,*
4 *and review pursuant to any other provi-*
5 *sion of law.”;*

6 *(2) in subsection (b)—*

7 *(A) in paragraph (3)(B), by insert-*
8 *ing “pursuant to subsection (f)” after*
9 *“unless”; and*

10 *(B) in paragraph (9), by adding at*
11 *the end the following: “Except as oth-*
12 *erwise provided in this subsection, no*
13 *court shall have jurisdiction, by ha-*
14 *beas corpus under section 2241 of title*
15 *28, United States Code, or any other*
16 *habeas corpus provision, by section*
17 *1361 or 1651 of title 28, United States*
18 *Code, or by any other provision of law*
19 *(statutory or nonstatutory), to hear*
20 *any cause or claim subject to these*
21 *consolidation provisions.”;*

22 *(3) in subsection (f)(2), by inserting*
23 *“or stay, by temporary or permanent*
24 *order, including stays pending judicial re-*
25 *view,” after “no court shall enjoin”; and*

1 (4) *in subsection (g), by inserting*
 2 *“(statutory and nonstatutory), including*
 3 *section 2241 of title 28, United States*
 4 *Code, or any other habeas corpus provi-*
 5 *sion, and sections 1361 and 1651 of title*
 6 *28, United States Code” after “notwith-*
 7 *standing any other provision of law”.*

8 (b) *EFFECTIVE DATE.—The amendments*
 9 *made by subsection (a) shall take effect upon*
 10 *the date of enactment of this Act and shall*
 11 *apply to cases in which the final administra-*
 12 *tive removal order was issued before, on, or*
 13 *after the date of enactment of this Act.*

14 **CHAPTER 2—DEPORTATION OF TERROR-**
 15 **ISTS AND SUPPORTERS OF TER-**
 16 **RORISM**

17 **SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**
 18 **ON REMOVAL.**

19 (a) *IN GENERAL.—Section 241(b)(3)(B) (8*
 20 *U.S.C. 1231(b)(3)(B)) is amended—*

21 (1) *in the matter preceding clause (i),*
 22 *by striking “section 237(a)(4)(D)” and in-*
 23 *serting “paragraph (4)(B) or (4)(D) of sec-*
 24 *tion 237(a)”;* and

25 (2) *in clause (iii), by striking “or”;*

1 ***(3) in clause (iv), by striking the pe-***
2 ***riod and inserting “; or” ;***

3 ***(4) by inserting after clause (iv) and***
4 ***following:***

5 ***“(v) the alien is described in***
6 ***subclause (I), (II), (III), (IV), or***
7 ***(VI) of section 212(a)(3)(B)(i) or***
8 ***section 237(a)(4)(B), unless, in the***
9 ***case only of an alien described in***
10 ***subclause (IV) of section***
11 ***212(a)(3)(B)(i), the Secretary of***
12 ***Homeland Security determines, in***
13 ***the Secretary’s discretion, that***
14 ***there are not reasonable grounds***
15 ***for regarding the alien as a dan-***
16 ***ger to the security of the United***
17 ***States.”; and***

18 ***(5) by striking the last sentence.***

19 ***(b) EXCEPTIONS.—Section 208(b)(2)(A)(v) of***
20 ***the Immigration and Nationality Act (8 U.S.C.***
21 ***1158(b)(2)(A)(v)) is amended—***

22 ***(1) by striking “inadmissible under”***
23 ***each place such term appears and insert-***
24 ***ing “described in”; and***

25 ***(2) by striking “removable under”.***

1 (c) **EFFECTIVE DATE.**—*The amendments*
2 *made by this section shall take effect on the*
3 *date of the enactment of this Act and shall*
4 *apply to—*

5 (1) *removal proceedings instituted be-*
6 *fore, on, or after the date of the enactment*
7 *of this Act; and*

8 (2) *acts and conditions constituting a*
9 *ground for inadmissibility or removal oc-*
10 *curring or existing before, on, or after*
11 *such date.*

12 **SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR**
13 **TERRORISTS AND CRIMINALS.**

14 (a) **REGULATIONS.**—

15 (1) **REVISION DEADLINE.**—*Not later*
16 *than 120 days after the date of the enact-*
17 *ment of this Act, the Secretary of Home-*
18 *land Security shall revise the regulations*
19 *prescribed by the Secretary to implement*
20 *the United Nations Convention Against*
21 *Torture and Other Forms of Cruel, Inhu-*
22 *man or Degrading Treatment or Punish-*
23 *ment, done at New York on December 10,*
24 *1984.*

1 **(2) EXCLUSION OF CERTAIN ALIENS.—***The*
2 *revision—*

3 **(A)** *shall exclude from the protec-*
4 *tion of such regulations aliens de-*
5 *scribed in section 241(b)(3)(B) of the*
6 *Immigration and Nationality Act (8*
7 *U.S.C. 1231(b)(3)(B)) (as amended by*
8 *this title), including rendering such*
9 *aliens ineligible for withholding or*
10 *deferral of removal under the Conven-*
11 *tion; and*

12 **(B)** *shall ensure that the revised*
13 *regulations operate so as to—*

14 **(i)** *allow for the reopening of*
15 *determinations made under the*
16 *regulations before the effective*
17 *date of the revision; and*

18 **(ii)** *apply to acts and condi-*
19 *tions constituting a ground for in-*
20 *eligibility for the protection of*
21 *such regulations, as revised, re-*
22 *gardless of when such acts or con-*
23 *ditions occurred.*

24 **(3) BURDEN OF PROOF.—***The revision*
25 *shall also ensure that the burden of proof*

1 *is on the applicant for withholding or de-*
2 *ferral of removal under the Convention to*
3 *establish by clear and convincing evi-*
4 *dence that he or she would be tortured if*
5 *removed to the proposed country of re-*
6 *moval.*

7 **(b) JUDICIAL REVIEW.**—*Notwithstanding*
8 *any other provision of law, no court shall have*
9 *jurisdiction to review the regulations adopted*
10 *to implement this section, and nothing in this*
11 *section shall be construed as providing any*
12 *court jurisdiction to consider or review claims*
13 *raised under the Convention or this section,*
14 *except as part of the review of a final order of*
15 *removal pursuant to section 242 of the Immi-*
16 *gration and Nationality Act (8 U.S.C. 1252).*

17 **SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

18 **(a) IN GENERAL.**—*Section 241(b) of the Im-*
19 *migration and Nationality Act (8 U.S.C.*
20 *1231(b)) is amended—*

21 **(1) in paragraph (1)—**

22 **(A) in each of subparagraphs (A)**
23 *and (B), by striking the period at the*
24 *end and inserting “unless, in the opin-*
25 *ion of the Secretary of Homeland Se-*

1 *curity, removing the alien to such*
2 *country would be prejudicial to the*
3 *United States.”; and*

4 *(B) by amending subparagraph*
5 *(C) to read as follows:*

6 *“(C) ALTERNATIVE COUNTRIES.—If*
7 *the alien is not removed to a country*
8 *designated in subparagraph (A) or*
9 *(B), the Secretary of Homeland Secu-*
10 *rity shall remove the alien to—*

11 *“(i) the country of which the*
12 *alien is a citizen, subject, or na-*
13 *tional, where the alien was born,*
14 *or where the alien has a resi-*
15 *dence, unless the country phys-*
16 *ically prevents the alien from en-*
17 *tering the country upon the alien’s*
18 *removal there; or*

19 *“(ii) any country whose gov-*
20 *ernment will accept the alien into*
21 *that country.”; and*

22 *(2) in paragraph (2)—*

23 *(A) by striking “Attorney General”*
24 *each place such term appears and in-*

1 *serting “Secretary of Homeland Secu-*
2 *rity”;*

3 *(B) by amending subparagraph*
4 *(D) to read as follows:*

5 *“(D) ALTERNATIVE COUNTRIES.—If*
6 *the alien is not removed to a country*
7 *designated under subparagraph*
8 *(A)(i), the Secretary of Homeland Se-*
9 *curity shall remove the alien to a*
10 *country of which the alien is a sub-*
11 *ject, national, or citizen, or where the*
12 *alien has a residence, unless—*

13 *“(i) such country physically*
14 *prevents the alien from entering*
15 *the country upon the alien’s re-*
16 *moval there; or*

17 *“(ii) in the opinion of the Sec-*
18 *retary of Homeland Security, re-*
19 *moving the alien to the country*
20 *would be prejudicial to the United*
21 *States.”; and*

22 *(C) by amending subparagraph*
23 *(E)(vii) to read as follows:*

1 “(vii) *Any country whose gov-*
 2 *ernment will accept the alien into*
 3 *that country.*”.

4 **(b) EFFECTIVE DATE.**—*The amendments*
 5 *made by subsection (a) shall take effect on the*
 6 *date of the enactment of this Act and shall*
 7 *apply to any deportation, exclusion, or re-*
 8 *moval on or after such date pursuant to any*
 9 *deportation, exclusion, or removal order, re-*
 10 *gardless of whether such order is administra-*
 11 *tively final before, on, or after such date.*

12 ***Subtitle B—Identity Management***
 13 ***Security***

14 ***CHAPTER 1—IMPROVED SECURITY FOR***
 15 ***DRIVERS’ LICENSES AND PERSONAL***
 16 ***IDENTIFICATION CARDS***

17 ***SEC. 3051. DEFINITIONS.***

18 *In this chapter, the following definitions*
 19 *apply:*

20 **(1) DRIVER’S LICENSE.**—*The term “driv-*
 21 *er’s license” means a motor vehicle opera-*
 22 *tor’s license, as defined in section 30301 of*
 23 *title 49, United States Code.*

24 **(2) IDENTIFICATION CARD.**—*The term*
 25 *“identification card” means a personal*

1 *identification card, as defined in section*
2 *1028(d) of title 18, United States Code,*
3 *issued by a State.*

4 (3) *SECRETARY.—The term “Secretary”*
5 *means the Secretary of Homeland Secu-*
6 *rity.*

7 (4) *STATE.—The term “State” means a*
8 *State of the United States, the District of*
9 *Columbia, Puerto Rico, the Virgin Is-*
10 *lands, Guam, American Samoa, the*
11 *Northern Mariana Islands, the Trust Ter-*
12 *ritory of the Pacific Islands, and any*
13 *other territory or possession of the United*
14 *States.*

15 *SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND*
16 *ISSUANCE STANDARDS FOR FEDERAL REC-*
17 *OGNITION.*

18 (a) *MINIMUM STANDARDS FOR FEDERAL*
19 *USE.—*

20 (1) *IN GENERAL.—Beginning 3 years*
21 *after the date of enactment of this Act, a*
22 *Federal agency may not accept, for any of-*
23 *ficial purpose, a driver’s license or identi-*
24 *fication card issued by a State to any per-*

1 *son unless the State is meeting the re-*
2 *quirements of this section.*

3 (2) *STATE CERTIFICATIONS.—The Sec-*
4 *retary shall determine whether a State is*
5 *meeting the requirements of this section*
6 *based on certifications made by the State*
7 *to the Secretary. Such certifications shall*
8 *be made at such times and in such man-*
9 *ner as the Secretary, in consultation with*
10 *the Secretary of Transportation, may pre-*
11 *scribe by regulation.*

12 (b) *MINIMUM DOCUMENT REQUIREMENTS.—*
13 *To meet the requirements of this section, a*
14 *State shall include, at a minimum, the fol-*
15 *lowing information and features on each driv-*
16 *er's license and identification card issued to a*
17 *person by the State:*

18 (1) *The person's full legal name.*

19 (2) *The person's date of birth.*

20 (3) *The person's gender.*

21 (4) *The person's driver license or iden-*
22 *tification card number.*

23 (5) *A photograph of the person.*

24 (6) *The person's address of principal*
25 *residence.*

1 ***(7) The person's signature.***

2 ***(8) Physical security features designed***
3 ***to prevent tampering, counterfeiting, or***
4 ***duplication of the document for fraudu-***
5 ***lent purposes.***

6 ***(9) A common machine-readable tech-***
7 ***nology, with defined minimum data ele-***
8 ***ments.***

9 ***(c) MINIMUM ISSUANCE STANDARDS.—***

10 ***(1) IN GENERAL.—To meet the require-***
11 ***ments of this section, a State shall re-***
12 ***quire, at a minimum, presentation and***
13 ***verification of the following information***
14 ***before issuing a driver's license or identi-***
15 ***fication card to a person:***

16 ***(A) A photo identity document, ex-***
17 ***cept that a non-photo identity docu-***
18 ***ment is acceptable if it includes both***
19 ***the person's full legal name and date***
20 ***of birth.***

21 ***(B) Documentation showing the***
22 ***person's date of birth.***

23 ***(C) Proof of the person's social se-***
24 ***curity account number or verification***

1 *that the person is not eligible for a so-*
2 *cial security account number.*

3 *(D) Documentation showing the*
4 *person's name and address of prin-*
5 *cipal residence.*

6 *(2) VERIFICATION OF DOCUMENTS.—To*
7 *meet the requirements of this section, a*
8 *State shall implement the following proce-*
9 *dures:*

10 *(A) Before issuing a driver's li-*
11 *cense or identification card to a per-*
12 *son, the State shall verify, with the*
13 *issuing agency, the issuance, validity,*
14 *and completeness of each document*
15 *required to be presented by the person*
16 *under paragraph (1).*

17 *(B) The State shall not accept any*
18 *foreign document, other than an offi-*
19 *cial passport, to satisfy a requirement*
20 *of paragraph (1).*

21 *(d) OTHER REQUIREMENTS.—To meet the re-*
22 *quirements of this section, a State shall adopt*
23 *the following practices in the issuance of driv-*
24 *ers' licenses and identification cards:*

1 ***(1) Employ technology to capture dig-***
2 ***ital images of identity source documents***
3 ***so that the images can be retained in elec-***
4 ***tronic storage in a transferable format.***

5 ***(2) Retain paper copies of source doc-***
6 ***uments for a minimum of 7 years or im-***
7 ***ages of source documents presented for a***
8 ***minimum of 10 years.***

9 ***(3) Subject each person applying for a***
10 ***driver's license or identification card to***
11 ***mandatory facial image capture.***

12 ***(4) Establish an effective procedure to***
13 ***confirm or verify a renewing applicant's***
14 ***information.***

15 ***(5) Confirm with the Social Security***
16 ***Administration a social security account***
17 ***number presented by a person using the***
18 ***full social security account number. In***
19 ***the event that a social security account***
20 ***number is already registered to or associ-***
21 ***ated with another person to which any***
22 ***State has issued a driver's license or iden-***
23 ***tification card, the State shall resolve the***
24 ***discrepancy and take appropriate action.***

1 ***(6) Refuse to issue a driver's license or***
2 ***identification card to a person holding a***
3 ***driver's license issued by another State***
4 ***without confirmation that the person is***
5 ***terminating or has terminated the driv-***
6 ***er's license.***

7 ***(7) Ensure the physical security of lo-***
8 ***cations where drivers' licenses and identi-***
9 ***fication cards are produced and the secu-***
10 ***rity of document materials and papers***
11 ***from which drivers' licenses and identi-***
12 ***fication cards are produced.***

13 ***(8) Subject all persons authorized to***
14 ***manufacture or produce drivers' licenses***
15 ***and identification cards to appropriate***
16 ***security clearance requirements.***

17 ***(9) Establish fraudulent document***
18 ***recognition training programs for appro-***
19 ***priate employees engaged in the issuance***
20 ***of drivers' licenses and identification***
21 ***cards.***

22 ***SEC. 3053. LINKING OF DATABASES.***

23 ***(a) IN GENERAL.—To be eligible to receive***
24 ***any grant or other type of financial assistance***
25 ***made available under this subtitle, a State***

1 *shall participate in the interstate compact re-*
2 *garding sharing of driver license data, known*
3 *as the “Driver License Agreement”, in order to*
4 *provide electronic access by a State to infor-*
5 *mation contained in the motor vehicle data-*
6 *bases of all other States.*

7 **(b) REQUIREMENTS FOR INFORMATION.—A**
8 *State motor vehicle database shall contain, at*
9 *a minimum, the following information:*

10 *(1) All data fields printed on drivers’*
11 *licenses and identification cards issued by*
12 *the State.*

13 *(2) Motor vehicle drivers’ histories, in-*
14 *cluding motor vehicle violations, suspen-*
15 *sions, and points on licenses.*

16 **SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**
17 **FOR USE IN FALSE IDENTIFICATION DOCU-**
18 **MENTS.**

19 *Section 1028(a)(8) of title 18, United States*
20 *Code, is amended by striking “false authen-*
21 *tication features” and inserting “false or ac-*
22 *tual authentication features”.*

23 **SEC. 3055. GRANTS TO STATES.**

24 **(a) IN GENERAL.—The Secretary may make**
25 *grants to a State to assist the State in con-*

1 *forming to the minimum standards set forth in*
 2 *this chapter.*

3 **(b) AUTHORIZATION OF APPROPRIATIONS.—**
 4 *There are authorized to be appropriated to the*
 5 *Secretary for each of the fiscal years 2005*
 6 *through 2009 such sums as may be necessary*
 7 *to carry out this chapter.*

8 **SEC. 3056. AUTHORITY.**

9 **(a) PARTICIPATION OF SECRETARY OF TRANS-**
 10 **PORTATION AND STATES.—***All authority to issue*
 11 *regulations, certify standards, and issue*
 12 *grants under this chapter shall be carried out*
 13 *by the Secretary, in consultation with the Sec-*
 14 *retary of Transportation and the States.*

15 **(b) EXTENSIONS OF DEADLINES.—***The Sec-*
 16 *retary may grant to a State an extension of*
 17 *time to meet the requirements of section*
 18 *3052(a)(1) if the State provides adequate jus-*
 19 *tification for noncompliance.*

20 **CHAPTER 2—IMPROVED SECURITY FOR**
 21 **BIRTH CERTIFICATES**

22 **SEC. 3061. DEFINITIONS.**

23 **(a) APPLICABILITY OF DEFINITIONS.—***Except*
 24 *as otherwise specifically provided, the defini-*

1 *tions contained in section 3051 apply to this*
2 *chapter.*

3 **(b) OTHER DEFINITIONS.—***In this chapter,*
4 *the following definitions apply:*

5 **(1) BIRTH CERTIFICATE.—***The term*
6 *“birth certificate” means a certificate of*
7 *birth—*

8 **(A) for an individual (regardless**
9 **of where born)—**

10 **(i) who is a citizen or national**
11 **of the United States at birth; and**

12 **(ii) whose birth is registered**
13 **in the United States; and**

14 **(B) that—**

15 **(i) is issued by a Federal,**
16 **State, or local government agency**
17 **or authorized custodian of record**
18 **and produced from birth records**
19 **maintained by such agency or cus-**
20 **todian of record; or**

21 **(ii) is an authenticated copy,**
22 **issued by a Federal, State, or local**
23 **government agency or authorized**
24 **custodian of record, of an original**

1 *certificate of birth issued by such*
2 *agency or custodian of record.*

3 (2) *REGISTRANT.*—*The term “reg-*
4 *istrant” means, with respect to a birth*
5 *certificate, the person whose birth is reg-*
6 *istered on the certificate.*

7 (3) *STATE.*—*The term “State” shall*
8 *have the meaning given such term in sec-*
9 *tion 3051; except that New York City shall*
10 *be treated as a State separate from New*
11 *York.*

12 *SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO*
13 *LOCAL GOVERNMENTS.*

14 *The minimum standards in this chapter*
15 *applicable to birth certificates issued by a*
16 *State shall also apply to birth certificates*
17 *issued by a local government in the State. It*
18 *shall be the responsibility of the State to en-*
19 *sure that local governments in the State com-*
20 *ply with the minimum standards.*

21 *SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNI-*
22 *TION.*

23 (a) *MINIMUM STANDARDS FOR FEDERAL*
24 *USE.*—

1 **(1) IN GENERAL.—Beginning 3 years**
2 **after the date of enactment of this Act, a**
3 **Federal agency may not accept, for any of-**
4 **ficial purpose, a birth certificate issued**
5 **by a State to any person unless the State**
6 **is meeting the requirements of this sec-**
7 **tion.**

8 **(2) STATE CERTIFICATIONS.—The Sec-**
9 **retary shall determine whether a State is**
10 **meeting the requirements of this section**
11 **based on certifications made by the State**
12 **to the Secretary. Such certifications shall**
13 **be made at such times and in such man-**
14 **ner as the Secretary, in consultation with**
15 **the Secretary of Health and Human Serv-**
16 **ices, may prescribe by regulation.**

17 **(b) MINIMUM DOCUMENT STANDARDS.—To**
18 **meet the requirements of this section, a State**
19 **shall include, on each birth certificate issued**
20 **to a person by the State, the use of safety**
21 **paper, the seal of the issuing custodian of**
22 **record, and such other features as the Sec-**
23 **retary may determine necessary to prevent**
24 **tampering, counterfeiting, and otherwise du-**
25 **plicating the birth certificate for fraudulent**

1 *purposes. The Secretary may not require a sin-*
2 *gle design to which birth certificates issued by*
3 *all States must conform.*

4 **(c) MINIMUM ISSUANCE STANDARDS.—**

5 **(1) IN GENERAL.—***To meet the require-*
6 *ments of this section, a State shall require*
7 *and verify the following information from*
8 *the requestor before issuing an authenti-*
9 *cated copy of a birth certificate:*

10 **(A)** *The name on the birth certifi-*
11 *cate.*

12 **(B)** *The date and location of the*
13 *birth.*

14 **(C)** *The mother's maiden name.*

15 **(D)** *Substantial proof of the re-*
16 *questor's identity.*

17 **(2) ISSUANCE TO PERSONS NOT NAMED**
18 **ON BIRTH CERTIFICATE.—***To meet the re-*
19 *quirements of this section, in the case of a*
20 *request by a person who is not named on*
21 *the birth certificate, a State must require*
22 *the presentation of legal authorization to*
23 *request the birth certificate before*
24 *issuance.*

1 **(3) ISSUANCE TO FAMILY MEMBERS.—***Not*
2 *later than one year after the date of en-*
3 *actment of this Act, the Secretary, in con-*
4 *sultation with the Secretary of Health and*
5 *Human Services and the States, shall es-*
6 *tablish minimum standards for issuance*
7 *of a birth certificate to specific family*
8 *members, their authorized representa-*
9 *tives, and others who demonstrate that*
10 *the certificate is needed for the protection*
11 *of the requestor's personal or property*
12 *rights.*

13 **(4) WAIVERS.—***A State may waive the*
14 *requirements set forth in subparagraphs*
15 *(A) through (C) of subsection (c)(1) in ex-*
16 *ceptional circumstances, such as the inca-*
17 *pacitation of the registrant.*

18 **(5) APPLICATIONS BY ELECTRONIC**
19 **MEANS.—***To meet the requirements of this*
20 *section, for applications by electronic*
21 *means, through the mail or by phone or*
22 *fax, a State shall employ third party*
23 *verification, or equivalent verification, of*
24 *the identity of the requestor.*

1 **(6) VERIFICATION OF DOCUMENTS.—To**
2 ***meet the requirements of this section, a***
3 ***State shall verify the documents used to***
4 ***provide proof of identity of the requestor.***

5 **(d) OTHER REQUIREMENTS.—To meet the re-**
6 ***quirements of this section, a State shall adopt,***
7 ***at a minimum, the following practices in the***
8 ***issuance and administration of birth certifi-***
9 ***cates:***

10 **(1) Establish and implement minimum**
11 ***building security standards for State and***
12 ***local vital record offices.***

13 **(2) Restrict public access to birth cer-**
14 ***tificates and information gathered in the***
15 ***issuance process to ensure that access is***
16 ***restricted to entities with which the State***
17 ***has a binding privacy protection agree-***
18 ***ment.***

19 **(3) Subject all persons with access to**
20 ***vital records to appropriate security***
21 ***clearance requirements.***

22 **(4) Establish fraudulent document**
23 ***recognition training programs for appro-***
24 ***priate employees engaged in the issuance***
25 ***process.***

1 ***(5) Establish and implement internal***
2 ***operating system standards for paper and***
3 ***for electronic systems.***

4 ***(6) Establish a central database that***
5 ***can provide interoperative data exchange***
6 ***with other States and with Federal agen-***
7 ***cies, subject to privacy restrictions and***
8 ***confirmation of the authority and identity***
9 ***of the requestor.***

10 ***(7) Ensure that birth and death***
11 ***records are matched in a comprehensive***
12 ***and timely manner, and that all elec-***
13 ***tronic birth records and paper birth cer-***
14 ***tificates of decedents are marked “de-***
15 ***ceased”.***

16 ***(8) Cooperate with the Secretary in***
17 ***the implementation of electronic***
18 ***verification of vital events under section***
19 ***3065.***

20 ***SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND***
21 ***DEATH REGISTRATION SYSTEMS.***

22 ***In consultation with the Secretary of***
23 ***Health and Human Services and the Commis-***
24 ***sioner of Social Security, the Secretary shall***
25 ***take the following actions:***

1 ***(1) Work with the States to establish a***
2 ***common data set and common data ex-***
3 ***change protocol for electronic birth reg-***
4 ***istration systems and death registration***
5 ***systems.***

6 ***(2) Coordinate requirements for such***
7 ***systems to align with a national model.***

8 ***(3) Ensure that fraud prevention is***
9 ***built into the design of electronic vital***
10 ***registration systems in the collection of***
11 ***vital event data, the issuance of birth cer-***
12 ***tificates, and the exchange of data among***
13 ***government agencies.***

14 ***(4) Ensure that electronic systems for***
15 ***issuing birth certificates, in the form of***
16 ***printed abstracts of birth records or***
17 ***digitized images, employ a common for-***
18 ***mat of the certified copy, so that those re-***
19 ***quiring such documents can quickly con-***
20 ***firm their validity.***

21 ***(5) Establish uniform field require-***
22 ***ments for State birth registries.***

23 ***(6) Not later than 1 year after the date***
24 ***of enactment of this Act, establish a proc-***
25 ***ess with the Department of Defense that***

1 *will result in the sharing of data, with the*
2 *States and the Social Security Adminis-*
3 *tration, regarding deaths of United States*
4 *military personnel and the birth and*
5 *death of their dependents.*

6 *(7) Not later than 1 year after the date*
7 *of enactment of this Act, establish a proc-*
8 *ess with the Department of State to im-*
9 *prove registration, notification, and the*
10 *sharing of data with the States and the*
11 *Social Security Administration, regarding*
12 *births and deaths of United States citi-*
13 *zens abroad.*

14 *(8) Not later than 3 years after the*
15 *date of establishment of databases pro-*
16 *vided for under this section, require*
17 *States to record and retain electronic*
18 *records of pertinent identification infor-*
19 *mation collected from requestors who are*
20 *not the registrants.*

21 *(9) Not later than 6 months after the*
22 *date of enactment of this Act, submit to*
23 *Congress, a report on whether there is a*
24 *need for Federal laws to address penalties*
25 *for fraud and misuse of vital records and*

1 *whether violations are sufficiently en-*
2 *forced.*

3 **SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.**

4 **(a) LEAD AGENCY.—***The Secretary shall*
5 *lead the implementation of electronic*
6 *verification of a person's birth and death.*

7 **(b) REGULATIONS.—***In carrying out sub-*
8 *section (a), the Secretary shall issue regula-*
9 *tions to establish a means by which authorized*
10 *Federal and State agency users with a single*
11 *interface will be able to generate an electronic*
12 *query to any participating vital records juris-*
13 *diction throughout the Nation to verify the*
14 *contents of a paper birth certificate. Pursuant*
15 *to the regulations, an electronic response from*
16 *the participating vital records jurisdiction as*
17 *to whether there is a birth record in their*
18 *database that matches the paper birth certifi-*
19 *cate will be returned to the user, along with*
20 *an indication if the matching birth record has*
21 *been flagged "deceased". The regulations shall*
22 *take effect not later than 5 years after the date*
23 *of enactment of this Act.*

1 SEC. 3066. GRANTS TO STATES.

2 (a) *IN GENERAL.*—*The Secretary may make*
3 *grants to a State to assist the State in con-*
4 *forming to the minimum standards set forth in*
5 *this chapter.*

6 (b) *AUTHORIZATION OF APPROPRIATIONS.*—
7 *There are authorized to be appropriated to the*
8 *Secretary for each of the fiscal years 2005*
9 *through 2009 such sums as may be necessary*
10 *to carry out this chapter.*

11 SEC. 3067. AUTHORITY.

12 (a) *PARTICIPATION WITH FEDERAL AGENCIES*
13 *AND STATES.*—*All authority to issue regula-*
14 *tions, certify standards, and issue grants*
15 *under this chapter shall be carried out by the*
16 *Secretary, with the concurrence of the Sec-*
17 *retary of Health and Human Services and in*
18 *consultation with State vital statistics offices*
19 *and appropriate Federal agencies.*

20 (b) *EXTENSIONS OF DEADLINES.*—*The Sec-*
21 *retary may grant to a State an extension of*
22 *time to meet the requirements of section*
23 *3063(a)(1) if the State provides adequate jus-*
24 *tification for noncompliance.*

1 **CHAPTER 3—MEASURES TO ENHANCE PRI-**
2 **VACY AND INTEGRITY OF SOCIAL SE-**
3 **CURITY ACCOUNT NUMBERS**

4 **SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**
5 **RITY ACCOUNT NUMBERS ON DRIVER'S LI-**
6 **CENSES OR MOTOR VEHICLE REGISTRA-**
7 **TIONS.**

8 **(a) IN GENERAL.—Section 205(c)(2)(C)(vi)**
9 **of the Social Security Act (42 U.S.C.**
10 **405(c)(2)(C)(vi)) is amended—**

11 **(1) by inserting “(I)” after “(vi)”;** and
12 **(2) by adding at the end the following**
13 **new subclause:**

14 **“(II) Any State or political subdivision**
15 **thereof (and any person acting as an agent of**
16 **such an agency or instrumentality), in the ad-**
17 **ministration of any driver’s license or motor**
18 **vehicle registration law within its jurisdic-**
19 **tion, may not display a social security account**
20 **number issued by the Commissioner of Social**
21 **Security (or any derivative of such number) on**
22 **any driver’s license or motor vehicle registra-**
23 **tion or any other document issued by such**
24 **State or political subdivision to an individual**
25 **for purposes of identification of such indi-**

1 *vidual or include on any such licence, reg-*
 2 *istration, or other document a magnetic strip,*
 3 *bar code, or other means of communication*
 4 *which conveys such number (or derivative*
 5 *thereof).”.*

6 **(b) EFFECTIVE DATE.**—*The amendments*
 7 *made by this section shall apply with respect*
 8 *to licenses, registrations, and other documents*
 9 *issued or reissued after 1 year after the date*
 10 *of the enactment of this Act.*

11 **SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH**
 12 **RECORDS PROVIDED IN SUPPORT OF APPLI-**
 13 **CATIONS FOR SOCIAL SECURITY ACCOUNT**
 14 **NUMBERS.**

15 **(a) APPLICATIONS FOR SOCIAL SECURITY AC-**
 16 **COUNT NUMBERS.**—*Section 205(c)(2)(B)(ii) of*
 17 *the Social Security Act (42 U.S.C.*
 18 *405(c)(2)(B)(ii)) is amended—*

19 **(1) by inserting “(I)” after “(ii)”;** *and*
 20 **(2) by adding at the end the following**
 21 ***new subclause:***

22 **“(II) With respect to an application for a**
 23 ***social security account number for an indi-***
 24 ***vidual, other than for purposes of enumera-***
 25 ***tion at birth, the Commissioner shall require***

1 *independent verification of any birth record*
2 *provided by the applicant in support of the ap-*
3 *plication. The Commissioner may provide by*
4 *regulation for reasonable exceptions from the*
5 *requirement for independent verification*
6 *under this subclause in any case in which the*
7 *Commissioner determines there is minimal op-*
8 *portunity for fraud.”.*

9 **(b) EFFECTIVE DATE.—***The amendment*
10 *made by subsection (a) shall apply with re-*
11 *spect to applications filed after 270 days after*
12 *the date of the enactment of this Act.*

13 **(c) STUDY REGARDING APPLICATIONS FOR RE-**
14 **PLACEMENT SOCIAL SECURITY CARDS.—**

15 **(1) IN GENERAL.—***As soon as prac-*
16 *ticable after the date of the enactment of*
17 *this Act, the Commissioner of Social Secu-*
18 *rity shall undertake a study to test the*
19 *feasibility and cost effectiveness of*
20 *verifying all identification documents*
21 *submitted by an applicant for a replace-*
22 *ment social security card. As part of such*
23 *study, the Commissioner shall determine*
24 *the feasibility of, and the costs associated*
25 *with, the development of appropriate elec-*

1 *tronic processes for third party*
2 *verification of any such identification*
3 *documents which are issued by agencies*
4 *and instrumentalities of the Federal Gov-*
5 *ernment and of the States (and political*
6 *subdivisions thereof).*

7 (2) *REPORT.—Not later than 2 years*
8 *after the date of the enactment of this Act,*
9 *the Commissioner shall report to the Com-*
10 *mittee on Ways and Means of the House of*
11 *Representatives and the Committee on Fi-*
12 *nance of the Senate regarding the results*
13 *of the study undertaken under paragraph*
14 *(1). Such report shall contain such rec-*
15 *ommendations for legislative changes as*
16 *the Commissioner considers necessary to*
17 *implement needed improvements in the*
18 *process for verifying identification docu-*
19 *ments submitted by applicants for re-*
20 *placement social security cards.*

21 *SEC. 3073. ENUMERATION AT BIRTH.*

22 (a) *IMPROVEMENT OF APPLICATION PROC-*
23 *ESS.—*

24 (1) *IN GENERAL.—As soon as prac-*
25 *ticable after the date of the enactment of*

1 *this Act, the Commissioner of Social Secu-*
2 *rity shall undertake to make improve-*
3 *ments to the enumeration at birth pro-*
4 *gram for the issuance of social security*
5 *account numbers to newborns. Such im-*
6 *provements shall be designed to prevent—*

7 (A) *the assignment of social secu-*
8 *rity account numbers to unnamed*
9 *children;*

10 (B) *the issuance of more than 1 so-*
11 *cial security account number to the*
12 *same child; and*

13 (C) *other opportunities for fraudu-*
14 *lently obtaining a social security ac-*
15 *count number.*

16 (2) *REPORT TO THE CONGRESS.—Not*
17 *later than 1 year after the date of the en-*
18 *actment of this Act, the Commissioner*
19 *shall transmit to each House of the Con-*
20 *gress a report specifying in detail the ex-*
21 *tent to which the improvements required*
22 *under paragraph (1) have been made.*

23 (b) *STUDY REGARDING PROCESS FOR ENU-*
24 *MERATION AT BIRTH.—*

1 **(1) IN GENERAL.**—As soon as prac-
2 **ticable after the date of the enactment of**
3 **this Act, the Commissioner of Social Secu-**
4 **rity shall undertake a study to determine**
5 **the most efficient options for ensuring the**
6 **integrity of the process for enumeration at**
7 **birth. Such study shall include an exam-**
8 **ination of available methods for recon-**
9 **ciling hospital birth records with birth**
10 **registrations submitted to agencies of**
11 **States and political subdivisions thereof**
12 **and with information provided to the**
13 **Commissioner as part of the process for**
14 **enumeration at birth.**

15 **(2) REPORT.**—Not later than 18 months
16 **after the date of the enactment of this Act,**
17 **the Commissioner shall report to the Com-**
18 **mittee on Ways and Means of the House of**
19 **Representatives and the Committee on Fi-**
20 **nance of the Senate regarding the results**
21 **of the study undertaken under paragraph**
22 **(1). Such report shall contain such rec-**
23 **ommendations for legislative changes as**
24 **the Commissioner considers necessary to**

1 *implement needed improvements in the*
2 *process for enumeration at birth.*

3 SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC
4 IDENTIFICATION IN CONNECTION WITH AP-
5 PLICATIONS FOR BENEFITS, SOCIAL SECU-
6 RITY ACCOUNT NUMBERS, AND SOCIAL SECU-
7 RITY CARDS.

8 (a) *IN GENERAL.*—As soon as practicable
9 *after the date of the enactment of this Act, the*
10 *Commissioner of Social Security shall under-*
11 *take a study to—*

12 (1) *determine the best method of re-*
13 *quiring and obtaining photographic iden-*
14 *tification of applicants for old-age, sur-*
15 *vivors, and disability insurance benefits*
16 *under title II of the Social Security Act,*
17 *for a social security account number, or*
18 *for a replacement social security card,*
19 *and of providing for reasonable excep-*
20 *tions to any requirement for photographic*
21 *identification of such applicants that may*
22 *be necessary to promote efficient and ef-*
23 *fective administration of such title, and*

24 (2) *evaluate the benefits and costs of*
25 *instituting such a requirement for photo-*

1 *graphic identification, including the de-*
2 *gree to which the security and integrity of*
3 *the old-age, survivors, and disability in-*
4 *surance program would be enhanced.*

5 *(b) REPORT.—Not later than 18 months*
6 *after the date of the enactment of this Act, the*
7 *Commissioner shall report to the Committee*
8 *on Ways and Means of the House of Represent-*
9 *atives and the Committee on Finance of the*
10 *Senate regarding the results of the study un-*
11 *dertaken under subsection (a). Such report*
12 *shall contain such recommendations for legis-*
13 *lative changes as the Commissioner considers*
14 *necessary relating to requirements for photo-*
15 *graphic identification of applicants described*
16 *in subsection (a).*

17 *SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-*
18 *PLACEMENT SOCIAL SECURITY CARDS.*

19 *(a) IN GENERAL.—Section 205(c)(2)(G) of*
20 *the Social Security Act (42 U.S.C. 405(c)(2)(G))*
21 *is amended by adding at the end the following*
22 *new sentence: “The Commissioner shall re-*
23 *strict the issuance of multiple replacement so-*
24 *cial security cards to any individual to 3 per*
25 *year and to 10 for the life of the individual, ex-*

1 *cept in any case in which the Commissioner*
2 *determines there is minimal opportunity for*
3 *fraud.”.*

4 **(b) REGULATIONS AND EFFECTIVE DATE.—**
5 *The Commissioner of Social Security shall*
6 *issue regulations under the amendment made*
7 *by subsection (a) not later than 1 year after the*
8 *date of the enactment of this Act. Systems con-*
9 *trols developed by the Commissioner pursuant*
10 *to such amendment shall take effect upon the*
11 *earlier of the issuance of such regulations or*
12 *the end of such 1-year period.*

13 **SEC. 3076. STUDY RELATING TO MODIFICATION OF THE SO-**
14 **CIAL SECURITY ACCOUNT NUMBERING SYS-**
15 **TEM TO SHOW WORK AUTHORIZATION STA-**
16 **TUS.**

17 **(a) IN GENERAL.—***As soon as practicable*
18 *after the date of the enactment of this Act, the*
19 *Commissioner of Social Security, in consulta-*
20 *tion with the Secretary of Homeland Security,*
21 *shall undertake a study to examine the best*
22 *method of modifying the social security ac-*
23 *count number assigned to individuals who—*
24 **(1) are not citizens of the United**
25 **States,**

1 ***(2) have not been admitted for perma-***
2 ***nent residence, and***

3 ***(3) are not authorized by the Secretary***
4 ***of Homeland Security to work in the***
5 ***United States, or are so authorized sub-***
6 ***ject to one or more restrictions,***

7 ***so as to include an indication of such lack of***
8 ***authorization to work or such restrictions on***
9 ***such an authorization.***

10 ***(b) REPORT.—Not later than 1 year after***
11 ***the date of the enactment of this Act, the Com-***
12 ***missioner shall report to the Committee on***
13 ***Ways and Means of the House of Representa-***
14 ***tives and the Committee on Finance of the Sen-***
15 ***ate regarding the results of the study under-***
16 ***taken under this section. Such report shall in-***
17 ***clude the Commissioner's recommendations of***
18 ***feasible options for modifying the social secu-***
19 ***rity account number in the manner described***
20 ***in subsection (a).***

***Subtitle C—Targeting Terrorist
Travel***

***SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS
AND TRAVEL HISTORY DATABASE.***

(a) IN GENERAL.—Not later than May 31, 2005, the Comptroller General of the United States, the Secretary of State, and the Secretary of Homeland Security each shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate the results of a separate study on the subjects described in subsection (c).

(b) STUDY.—The study submitted by the Secretary of State under subsection (a) shall be completed by the Office of Visa and Passport Control of the Department of State, in coordination with the appropriate officials of the Department of Homeland Security.

(c) CONTENTS.—The studies described in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected

1 *terrorists' travel, and apprehending suspected*
2 *terrorists, of each of the following:*

3 (1) *Requiring nationals of all coun-*
4 *tries to present machine-readable, tam-*
5 *per-resistant passports that incorporate*
6 *biometric and document authentication*
7 *identifiers.*

8 (2) *Creation of a database containing*
9 *information on the lifetime travel history*
10 *of each foreign national or United States*
11 *citizen who might seek to enter the United*
12 *States or another country at any time, in*
13 *order that border and visa issuance offi-*
14 *cial may ascertain the travel history of a*
15 *prospective entrant by means other than a*
16 *passport.*

17 (d) *INCENTIVES.—The studies described in*
18 *subsection (a) shall also make recommenda-*
19 *tions on incentives that might be offered to en-*
20 *courage foreign nations to participate in the*
21 *initiatives described in paragraphs (1) and (2)*
22 *of subsection (c).*

1 *SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIR-*
2 *PORTS.*

3 *(a) IN GENERAL.—Section 235A(a)(4) of the*
4 *Immigration and Nationality Act (8 U.S.C.*
5 *1225(a)(4)) is amended—*

6 *(1) by striking “October 31, 2000,” and*
7 *inserting “January 1, 2008,”;*

8 *(2) by striking “5 additional” and in-*
9 *serting “up to 25 additional”;*

10 *(3) by striking “number of aliens” and*
11 *inserting “number of inadmissible aliens,*
12 *especially aliens who are potential terror-*
13 *ists,”;*

14 *(4) by striking “who are inadmissible*
15 *to the United States.” and inserting a pe-*
16 *riod; and*

17 *(5) by striking “Attorney General”*
18 *each place such term appears and insert-*
19 *ing “Secretary of Homeland Security”.*

20 *(b) REPORT.—Not later than June 30, 2006,*
21 *the Secretary of Homeland Security and the*
22 *Secretary of State shall report to the Commit-*
23 *tees on the Judiciary of the House of Rep-*
24 *resentatives and of the Senate, the Committee*
25 *on International Relations of the House of*
26 *Representatives, and the Committee on For-*

1 *eign Relations of the Senate on the progress*
 2 *being made in implementing the amendments*
 3 *made by subsection (a).*

4 (c) *AUTHORIZATION OF APPROPRIATIONS.—*
 5 *There are authorized to be appropriated to the*
 6 *Secretary of Homeland Security to carry out*
 7 *the amendments made by subsection (a)—*

8 (1) *\$24,000,000 for fiscal year 2005;*

9 (2) *\$48,000,000 for fiscal year 2006;*

10 *and*

11 (3) *\$97,000,000 for fiscal year 2007.*

12 *SEC. 3083. IMMIGRATION SECURITY INITIATIVE.*

13 (a) *IN GENERAL.—Section 235A(b) of the Im-*
 14 *migration and Nationality Act (8 U.S.C.*
 15 *1225(b)) is amended—*

16 (1) *in the subsection heading, by in-*
 17 *serting “AND IMMIGRATION SECURITY INITIA-*
 18 *TIVE” after “PROGRAM”; and*

19 (2) *by adding at the end the following:*
 20 *“Beginning not later than December 31, 2006,*
 21 *the number of airports selected for an assign-*
 22 *ment under this subsection shall be at least*
 23 *50.”.*

24 (b) *AUTHORIZATION OF APPROPRIATIONS.—*
 25 *There are authorized to be appropriated to the*

1 *Secretary of Homeland Security to carry out*
2 *the amendments made by subsection (a)—*

3 *(1) \$25,000,000 for fiscal year 2005;*

4 *(2) \$40,000,000 for fiscal year 2006;*

5 *and*

6 *(3) \$40,000,000 for fiscal year 2007.*

7 *SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-*
8 *SULAR OFFICERS.*

9 *(a) INCREASED NUMBER OF CONSULAR OFFI-*
10 *CERS.—The Secretary of State, in each of fiscal*
11 *years 2006 through 2009, may increase by 150*
12 *the number of positions for consular officers*
13 *above the number of such positions for which*
14 *funds were allotted for the preceding fiscal*
15 *year.*

16 *(b) LIMITATION ON USE OF FOREIGN NATION-*
17 *ALS FOR NONIMMIGRANT VISA SCREENING.—Sec-*
18 *tion 222(d) of the Immigration and Nation-*
19 *ality Act (8 U.S.C. 1202(d)) is amended by add-*
20 *ing at the end the following:*

21 *“All nonimmigrant visa applications shall be*
22 *reviewed and adjudicated by a consular offi-*
23 *cer.”.*

24 *(c) TRAINING FOR CONSULAR OFFICERS IN*
25 *DETECTION OF FRAUDULENT DOCUMENTS.—Sec-*

1 *tion 305(a) of the Enhanced Border Security*
2 *and Visa Entry Reform Act of 2002 (8 U.S.C.*
3 *1734(a)) is amended by adding at the end the*
4 *following: “As part of the consular training*
5 *provided to such officers by the Secretary of*
6 *State, such officers shall also receive training*
7 *in detecting fraudulent documents and gen-*
8 *eral document forensics and shall be required*
9 *as part of such training to work with immigra-*
10 *tion officers conducting inspections of appli-*
11 *cants for admission into the United States at*
12 *ports of entry.”.*

13 *(d) ASSIGNMENT OF ANTI-FRAUD SPECIAL-*
14 *ISTS.—*

15 *(1) SURVEY REGARDING DOCUMENT*
16 *FRAUD.—The Secretary of State, in coordi-*
17 *nation with the Secretary of Homeland*
18 *Security, shall conduct a survey of each*
19 *diplomatic and consular post at which*
20 *visas are issued to assess the extent to*
21 *which fraudulent documents are pre-*
22 *sented by visa applicants to consular offi-*
23 *cers at such posts.*

24 *(2) PLACEMENT OF SPECIALIST.—Not*
25 *later than July 31, 2005, the Secretary*

1 *shall, in coordination with the Secretary*
2 *of Homeland Security, identify 100 of such*
3 *posts that experience the greatest fre-*
4 *quency of presentation of fraudulent doc-*
5 *uments by visa applicants. The Secretary*
6 *shall place in each such post at least one*
7 *full-time anti-fraud specialist employed by*
8 *the Department of State to assist the con-*
9 *sular officers at each such post in the de-*
10 *tection of such fraud.*

11 SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-
12 LATED ACTIVITY.

13 *Section 1028 of title 18, United States Code,*
14 *relating to penalties for fraud and related ac-*
15 *tivity in connection with identification docu-*
16 *ments and information, is amended—*

17 *(1) in subsection (b)(1)(A)(i), by strik-*
18 *ing “issued by or under the authority of*
19 *the United States” and inserting the fol-*
20 *lowing: “as described in subsection (d)”;*

21 *(2) in subsection (b)(2), by striking*
22 *“three years” and inserting “six years”;*

23 *(3) in subsection (b)(3), by striking “20*
24 *years” and inserting “25 years”;*

1 (4) *in subsection (b)(4), by striking “25*
2 *years” and inserting “30 years”; and*

3 (5) *in subsection (c)(1), by inserting*
4 *after “United States” the following: “Gov-*
5 *ernment, a State, political subdivision of*
6 *a State, a foreign government, political*
7 *subdivision of a foreign government, an*
8 *international governmental or an inter-*
9 *national quasi-governmental organiza-*
10 *tion,”.*

11 *SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-*
12 *ZENSHIP.*

13 *Section 1015 of title 18, United States Code,*
14 *is amended—*

15 (1) *by striking the dash at the end of*
16 *subsection (f) and inserting “; or”; and*

17 (2) *by inserting after subsection (f) the*
18 *following:*

19 “(g) *Whoever knowingly makes any false*
20 *statement or claim that he is a citizen of the*
21 *United States in order to enter into, or remain*
22 *in, the United States—”.*

1 *SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF THE*
2 *DEPARTMENT OF STATE.*

3 **(a) LIMITATION.**—*Notwithstanding any*
4 *other provision of law, the Secretary of State*
5 *shall ensure, subject to subsection (b), that the*
6 *Antiterrorism Assistance Training (ATA) pro-*
7 *gram of the Department of State (or any suc-*
8 *cessor or related program) under chapter 8 of*
9 *part II of the Foreign Assistance Act of 1961*
10 *(22 U.S.C. 2349aa et seq.) (or other relevant*
11 *provisions of law) is carried out primarily to*
12 *provide training to host nation security serv-*
13 *ices for the specific purpose of ensuring the*
14 *physical security and safety of United States*
15 *Government facilities and personnel abroad*
16 *(as well as foreign dignitaries and training re-*
17 *lated to the protection of such dignitaries), in-*
18 *cluding security detail training and offenses*
19 *related to passport or visa fraud.*

20 **(b) EXCEPTION.**—*The limitation contained*
21 *in subsection (a) shall not apply, and the Sec-*
22 *retary of State may expand the ATA program*
23 *to include other types of antiterrorism assist-*
24 *ance training, if the Secretary first consults*
25 *with the Attorney General and provides writ-*

1 *ten notification of such proposed expansion to*
2 *the appropriate congressional committees.*

3 (c) *DEFINITION.—In this section, the term*
4 *“appropriate congressional committees”*
5 *means—*

6 (1) *the Committee on International*
7 *Relations and the Committee on the Judi-*
8 *ciary of the House of Representatives; and*

9 (2) *the Committee on Foreign Rela-*
10 *tions and the Committee on the Judiciary*
11 *of the Senate.*

12 *SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND*
13 *CURTAIN TERRORIST TRAVEL THROUGH THE*
14 *USE OF FRAUDULENTLY OBTAINED DOCU-*
15 *MENTS.*

16 (a) *FINDINGS.—Congress finds the fol-*
17 *lowing:*

18 (1) *International terrorists travel*
19 *across international borders to raise*
20 *funds, recruit members, train for oper-*
21 *ations, escape capture, communicate, and*
22 *plan and carry out attacks.*

23 (2) *The international terrorists who*
24 *planned and carried out the attack on the*
25 *World Trade Center on February 26, 1993,*

1 *the attack on the embassies of the United*
2 *States in Kenya and Tanzania on August*
3 *7, 1998, the attack on the USS Cole on Oc-*
4 *tober 12, 2000, and the attack on the*
5 *World Trade Center and the Pentagon on*
6 *September 11, 2001, traveled across inter-*
7 *national borders to plan and carry out*
8 *these attacks.*

9 (3) *The international terrorists who*
10 *planned other attacks on the United*
11 *States, including the plot to bomb New*
12 *York City landmarks in 1993, the plot to*
13 *bomb the New York City subway in 1997,*
14 *and the millennium plot to bomb Los An-*
15 *geles International Airport on December*
16 *31, 1999, traveled across international*
17 *borders to plan and carry out these at-*
18 *tacks.*

19 (4) *Many of the international terror-*
20 *ists who planned and carried out large-*
21 *scale attacks against foreign targets, in-*
22 *cluding the attack in Bali, Indonesia, on*
23 *October 11, 2002, and the attack in Ma-*
24 *drid, Spain, on March 11, 2004, traveled*

1 *across international borders to plan and*
2 *carry out these attacks.*

3 (5) *Throughout the 1990s, inter-*
4 *national terrorists, including those in-*
5 *involved in the attack on the World Trade*
6 *Center on February 26, 1993, the plot to*
7 *bomb New York City landmarks in 1993,*
8 *and the millennium plot to bomb Los An-*
9 *geles International Airport on December*
10 *31, 1999, traveled on fraudulent passports*
11 *and often had more than one passport.*

12 (6) *Two of the September 11, 2001, hi-*
13 *jackers were carrying passports that had*
14 *been manipulated in a fraudulent man-*
15 *ner and several other hijackers whose*
16 *passports did not survive the attacks on*
17 *the World Trade Center and Pentagon*
18 *were likely to have carried passports that*
19 *were similarly manipulated.*

20 (7) *The National Commission on Ter-*
21 *rorist Attacks upon the United States,*
22 *(commonly referred to as the 9/11 Commis-*
23 *sion), stated that “Targeting travel is at*
24 *least as powerful a weapon against ter-*
25 *rorists as targeting their money.”.*

1 ***(b) INTERNATIONAL AGREEMENTS TO TRACK***
2 ***AND CURTAIL TERRORIST TRAVEL.—***

3 ***(1) INTERNATIONAL AGREEMENT ON***
4 ***LOST, STOLEN, OR FALSIFIED DOCUMENTS.—***
5 ***The President shall lead efforts to track***
6 ***and curtail the travel of terrorists by sup-***
7 ***porting the drafting, adoption, and imple-***
8 ***mentation of international agreements,***
9 ***and by supporting the expansion of exist-***
10 ***ing international agreements, to track***
11 ***and stop international travel by terrorists***
12 ***and other criminals through the use of***
13 ***lost, stolen, or falsified documents to aug-***
14 ***ment existing United Nations and other***
15 ***international anti-terrorism efforts.***

16 ***(2) CONTENTS OF INTERNATIONAL AGREE-***
17 ***MENT.—The President shall seek, in the***
18 ***appropriate fora, the drafting, adoption,***
19 ***and implementation of an effective inter-***
20 ***national agreement requiring—***

21 ***(A) the establishment of a system***
22 ***to share information on lost, stolen,***
23 ***and fraudulent passports and other***
24 ***travel documents for the purposes of***
25 ***preventing the undetected travel of***

1 *persons using such passports and*
2 *other travel documents that were ob-*
3 *tained improperly;*

4 *(B) the establishment and imple-*
5 *mentation of a real-time verification*
6 *system of passports and other travel*
7 *documents with issuing authorities;*

8 *(C) the assumption of an obliga-*
9 *tion by countries that are parties to*
10 *the agreement to share with officials*
11 *at ports of entry in any such country*
12 *information relating to lost, stolen,*
13 *and fraudulent passports and other*
14 *travel documents;*

15 *(D) the assumption of an obliga-*
16 *tion by countries that are parties to*
17 *the agreement—*

18 *(i) to criminalize—*

19 *(I) the falsification or*
20 *counterfeiting of travel docu-*
21 *ments or breeder documents*
22 *for any purpose;*

23 *(II) the use or attempted*
24 *use of false documents to ob-*

1 *tain a visa or cross a border*
2 *for any purpose;*

3 *(III) the possession of tools*
4 *or implements used to falsify*
5 *or counterfeit such documents;*

6 *(IV) the trafficking in*
7 *false or stolen travel docu-*
8 *ments and breeder documents*
9 *for any purpose;*

10 *(V) the facilitation of trav-*
11 *el by a terrorist; and*

12 *(VI) attempts to commit,*
13 *including conspiracies to com-*
14 *mit, the crimes specified*
15 *above;*

16 *(ii) to impose significant pen-*
17 *alties so as to appropriately pun-*
18 *ish violations and effectively deter*
19 *these crimes; and*

20 *(iii) to limit the issuance of*
21 *citizenship papers, passports,*
22 *identification documents, and the*
23 *like to persons whose identity is*
24 *proven to the issuing authority,*
25 *who have a bona fide entitlement*

1 *to or need for such documents,*
2 *and who are not issued such docu-*
3 *ments principally on account of a*
4 *disproportional payment made by*
5 *them or on their behalf to the*
6 *issuing authority;*

7 *(E) the provision of technical as-*
8 *sistance to State Parties to help them*
9 *meet their obligations under the con-*
10 *vention;*

11 *(F) the establishment and imple-*
12 *mentation of a system of self-assess-*
13 *ments and peer reviews to examine the*
14 *degree of compliance with the conven-*
15 *tion; and*

16 *(G) an agreement that would per-*
17 *mit immigration and border officials*
18 *to confiscate a lost, stolen, or falsified*
19 *passport at ports of entry and permit*
20 *the traveler to return to the sending*
21 *country without being in possession of*
22 *the lost, stolen, or falsified passport,*
23 *and for the detention and investiga-*
24 *tion of such traveler upon the return*
25 *of the traveler to the sending country.*

1 **(3) INTERNATIONAL CIVIL AVIATION OR-**
2 **GANIZATION.—***The United States shall lead*
3 *efforts to track and curtail the travel of*
4 *terrorists by supporting efforts at the*
5 *International Civil Aviation Organization*
6 *to continue to strengthen the security fea-*
7 *tures of passports and other travel docu-*
8 *ments.*

9 **(c) REPORT.—**

10 **(1) IN GENERAL.—***Not later than one*
11 *year after the date of the enactment of*
12 *this Act, and at least annually thereafter,*
13 *the President shall submit to the appro-*
14 *priate congressional committees a report*
15 *on progress toward achieving the goals*
16 *described in subsection (b).*

17 **(2) TERMINATION.—***Paragraph (1)*
18 *shall cease to be effective when the Presi-*
19 *dent certifies to the Committee on Inter-*
20 *national Relations of the House of Rep-*
21 *resentatives and the Committee on For-*
22 *eign Relations of the Senate that the goals*
23 *described in subsection (b) have been fully*
24 *achieved.*

1 SEC. 3089. INTERNATIONAL STANDARDS FOR TRANSLATION
2 OF NAMES INTO THE ROMAN ALPHABET FOR
3 INTERNATIONAL TRAVEL DOCUMENTS AND
4 NAME-BASED WATCHLIST SYSTEMS.

5 (a) *FINDINGS.—Congress finds that—*

6 (1) *the current lack of a single con-*
7 *vention for translating Arabic names en-*
8 *abled some of the 19 hijackers of aircraft*
9 *used in the terrorist attacks against the*
10 *United States that occurred on September*
11 *11, 2001, to vary the spelling of their*
12 *names to defeat name-based terrorist*
13 *watchlist systems and to make more dif-*
14 *ficult any potential efforts to locate them;*
15 *and*

16 (2) *although the development and uti-*
17 *lization of terrorist watchlist systems*
18 *using biometric identifiers will be helpful,*
19 *the full development and utilization of*
20 *such systems will take several years, and*
21 *name-based terrorist watchlist systems*
22 *will always be useful.*

23 (b) *SENSE OF CONGRESS.—It is the sense of*
24 *Congress that the President should seek to*
25 *enter into an international agreement to mod-*
26 *ernize and improve standards for the trans-*

1 *lation of names into the Roman alphabet in*
2 *order to ensure one common spelling for such*
3 *names for international travel documents and*
4 *name-based watchlist systems.*

5 *SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.*

6 *(a) FINDINGS.—Consistent with the report*
7 *of the National Commission on Terrorist At-*
8 *tacks Upon the United States, Congress finds*
9 *that completing a biometric entry and exit*
10 *data system as expeditiously as possible is an*
11 *essential investment in efforts to protect the*
12 *United States by preventing the entry of terror-*
13 *ists.*

14 *(b) PLAN AND REPORT.—*

15 *(1) DEVELOPMENT OF PLAN.—The Sec-*
16 *retary of Homeland Security shall develop*
17 *a plan to accelerate the full implementa-*
18 *tion of an automated biometric entry and*
19 *exit data system required by applicable*
20 *sections of—*

21 *(A) the Illegal Immigration Re-*
22 *form and Immigrant Responsibility*
23 *Act of 1996 (Public Law 104–208);*

24 *(B) the Immigration and Natu-*
25 *ralization Service Data Management*

1 ***Improvement Act of 2000 (Public Law***
2 ***106–205);***

3 ***(C) the Visa Waiver Permanent***
4 ***Program Act (Public Law 106–396);***

5 ***(D) the Enhanced Border Security***
6 ***and Visa Entry Reform Act of 2002***
7 ***(Public Law 107–173); and***

8 ***(E) the Uniting and Strengthening***
9 ***America by Providing Appropriate***
10 ***Tools Required to Intercept and Ob-***
11 ***struct Terrorism Act of 2001 (Public***
12 ***Law 107–56).***

13 ***(2) REPORT.—Not later than 180 days***
14 ***after the date of the enactment of this Act,***
15 ***the Secretary shall submit a report to***
16 ***Congress on the plan developed under***
17 ***paragraph (1), which shall contain—***

18 ***(A) a description of the current***
19 ***functionality of the entry and exit***
20 ***data system, including—***

21 ***(i) a listing of ports of entry***
22 ***with biometric entry data systems***
23 ***in use and whether such screening***
24 ***systems are located at primary or***
25 ***secondary inspection areas;***

1 (ii) *a listing of ports of entry*
2 *with biometric exit data systems*
3 *in use;*

4 (iii) *a listing of databases and*
5 *data systems with which the auto-*
6 *mated entry and exit data system*
7 *are interoperable;*

8 (iv) *a description of—*

9 (I) *identified deficiencies*
10 *concerning the accuracy or in-*
11 *tegrity of the information con-*
12 *tained in the entry and exit*
13 *data system;*

14 (II) *identified deficiencies*
15 *concerning technology associ-*
16 *ated with processing individ-*
17 *uals through the system; and*

18 (III) *programs or policies*
19 *planned or implemented to*
20 *correct problems identified in*
21 *subclause (I) or (II); and*

22 (v) *an assessment of the effec-*
23 *tiveness of the entry and exit data*
24 *system in fulfilling its intended*
25 *purposes, including preventing*

1 *terrorists from entering the*
2 *United States;*

3 *(B) a description of factors rel-*
4 *evant to the accelerated implementa-*
5 *tion of the biometric entry and exit*
6 *system, including—*

7 *(i) the earliest date on which*
8 *the Secretary estimates that full*
9 *implementation of the biometric*
10 *entry and exit data system can be*
11 *completed;*

12 *(ii) the actions the Secretary*
13 *will take to accelerate the full im-*
14 *plementation of the biometric*
15 *entry and exit data system at all*
16 *ports of entry through which all*
17 *aliens must pass that are legally*
18 *required to do so; and*

19 *(iii) the resources and au-*
20 *thorities required to enable the*
21 *Secretary to meet the implementa-*
22 *tion date described in clause (i);*

23 *(C) a description of any improve-*
24 *ments needed in the information tech-*

1 *nology employed for the entry and exit*
2 *data system; and*

3 *(D) a description of plans for im-*
4 *proved or added interoperability with*
5 *any other databases or data systems.*

6 ***(c) INTEGRATION REQUIREMENT.—Not later***
7 ***than 2 years after the date of the enactment of***
8 ***this Act, the Secretary shall integrate the bio-***
9 ***metric entry and exit data system with all***
10 ***databases and data systems maintained by the***
11 ***United States Citizenship and Immigration***
12 ***Services that process or contain information***
13 ***on aliens.***

14 ***(d) MAINTAINING ACCURACY AND INTEGRITY***
15 ***OF ENTRY AND EXIT DATA SYSTEM.—***

16 ***(1) IN GENERAL.—The Secretary, in***
17 ***consultation with other appropriate agen-***
18 ***cies, shall establish rules, guidelines, poli-***
19 ***cies, and operating and auditing proce-***
20 ***dures for collecting, removing, and updat-***
21 ***ing data maintained in, and adding in-***
22 ***formation to, the entry and exit data sys-***
23 ***tem, and databases and data systems***
24 ***linked to the entry and exit data system,***

1 *that ensure the accuracy and integrity of*
2 *the data.*

3 (2) *REQUIREMENTS.—The rules, guide-*
4 *lines, policies, and procedures established*
5 *under paragraph (1) shall—*

6 (A) *incorporate a simple and time-*
7 *ly method for—*

8 (i) *correcting errors; and*

9 (ii) *clarifying information*
10 *known to cause false hits or*
11 *misidentification errors; and*

12 (B) *include procedures for individ-*
13 *uals to seek corrections of data con-*
14 *tained in the data systems.*

15 (e) *EXPEDITING REGISTERED TRAVELERS*
16 *ACROSS INTERNATIONAL BORDERS.—*

17 (1) *FINDINGS.—Consistent with the re-*
18 *port of the National Commission on Ter-*
19 *rorist Attacks Upon the United States,*
20 *Congress finds that—*

21 (A) *expediting the travel of pre-*
22 *viously screened and known travelers*
23 *across the borders of the United States*
24 *should be a high priority; and*

1 **(B) the process of expediting**
2 **known travelers across the border can**
3 **permit inspectors to better focus on**
4 **identifying terrorists attempting to**
5 **enter the United States.**

6 **(2) DEFINITION.—The term “registered**
7 **traveler program” means any program de-**
8 **signed to expedite the travel of previously**
9 **screened and known travelers across the**
10 **borders of the United States.**

11 **(3) REGISTERED TRAVEL PLAN.—**

12 **(A) IN GENERAL.—As soon as is**
13 **practicable, the Secretary shall de-**
14 **velop and implement a plan to expe-**
15 **dite the processing of registered trav-**
16 **elers who enter and exit the United**
17 **States through a single registered**
18 **traveler program.**

19 **(B) INTEGRATION.—The registered**
20 **traveler program developed under this**
21 **paragraph shall be integrated into**
22 **the automated biometric entry and**
23 **exit data system described in this sec-**
24 **tion.**

1 **(C) REVIEW AND EVALUATION.—In**
2 ***developing the program under this***
3 ***paragraph, the Secretary shall—***

4 ***(i) review existing programs or***
5 ***pilot projects designed to expedite***
6 ***the travel of registered travelers***
7 ***across the borders of the United***
8 ***States;***

9 ***(ii) evaluate the effectiveness***
10 ***of the programs described in***
11 ***clause (i), the costs associated***
12 ***with such programs, and the costs***
13 ***to travelers to join such programs;***
14 ***and***

15 ***(iii) increase research and de-***
16 ***velopment efforts to accelerate the***
17 ***development and implementation***
18 ***of a single registered traveler pro-***
19 ***gram.***

20 **(4) REPORT.—Not later than 1 year**
21 ***after the date of the enactment of this Act,***
22 ***the Secretary shall submit to the Congress***
23 ***a report describing the Department’s***
24 ***progress on the development and imple-***

1 *mentation of the plan required by this*
2 *subsection.*

3 **(f) AUTHORIZATION OF APPROPRIATIONS.—**

4 *There are authorized to be appropriated to the*
5 *Secretary, for each of the fiscal years 2005*
6 *through 2009, such sums as may be necessary*
7 *to carry out the provisions of this section.*

8 **SEC. 3091. ENHANCED RESPONSIBILITIES OF THE COORDI-**
9 **NATOR FOR counterterrorism.**

10 **(a) DECLARATION OF UNITED STATES POL-**
11 **ICY.—Congress declares that it shall be the pol-**
12 **icy of the United States to—**

13 **(1) make combating terrorist travel**
14 *and those who assist them a priority for*
15 *the United States counterterrorism policy;*
16 *and*

17 **(2) ensure that the information relat-**
18 *ing to individuals who help facilitate ter-*
19 *rorist travel by creating false passports,*
20 *visas, documents used to obtain such trav-*
21 *el documents, and other documents are*
22 *fully shared within the United States Gov-*
23 *ernment and, to the extent possible, with*
24 *and from foreign governments, in order to*

1 *initiate United States and foreign pros-*
2 *ecutions of such individuals.*

3 **(b) AMENDMENT.**—*Section 1(e)(2) of the*
4 *State Department Basic Authorities Act of*
5 *1956 (22 U.S.C. 2651a(e)(2)) is amended by add-*
6 *ing at the end the following:*

7 **“(C) ADDITIONAL DUTIES RELATING**
8 **TO TERRORIST TRAVEL.**—*In addition to*
9 *the principal duties of the Coordi-*
10 *nator described in subparagraph (B),*
11 *the Coordinator shall analyze meth-*
12 *ods used by terrorists to travel inter-*
13 *nationally, develop policies with re-*
14 *spect to curtailing terrorist travel,*
15 *and coordinate such policies with the*
16 *appropriate bureaus and other enti-*
17 *ties of the Department of State, other*
18 *United States Government agencies,*
19 *the Human Trafficking and Smug-*
20 *gling Center, and foreign govern-*
21 *ments.”.*

1 *SEC. 3092. ESTABLISHMENT OF OFFICE OF VISA AND PASS-*
2 *PORT SECURITY IN THE DEPARTMENT OF*
3 *STATE.*

4 *(a) ESTABLISHMENT.—There is established*
5 *within the Bureau of Diplomatic Security of*
6 *the Department of State an Office of Visa and*
7 *Passport Security (in this section referred to*
8 *as the “Office”).*

9 *(b) HEAD OF OFFICE.—*

10 *(1) IN GENERAL.—Notwithstanding any*
11 *other provision of law, the head of the Of-*
12 *fice shall be an individual who shall have*
13 *the rank and status of Deputy Assistant*
14 *Secretary of State for Diplomatic Security*
15 *(in this section referred to as the “Deputy*
16 *Assistant Secretary”).*

17 *(2) RECRUITMENT.—The Under Sec-*
18 *retary of State for Management shall*
19 *chose the Deputy Assistant Secretary from*
20 *among individuals who are Diplomatic*
21 *Security Agents.*

22 *(3) QUALIFICATIONS.—The Diplomatic*
23 *Security Agent chosen to serve as the Dep-*
24 *uty Assistant Secretary shall have exper-*
25 *tise and experience in investigating and*
26 *prosecuting visa and passport fraud.*

1 **(c) DUTIES.—**

2 **(1) PREPARATION OF STRATEGIC PLAN.—**

3 **(A) IN GENERAL.—***The Deputy As-*
4 *stant Secretary, in coordination*
5 *with the appropriate officials of the*
6 *Department of Homeland Security,*
7 *shall ensure the preparation of a stra-*
8 *tegic plan to target and disrupt indi-*
9 *viduals and organizations at home*
10 *and in foreign countries that are in-*
11 *volved in the fraudulent production,*
12 *distribution, use, or other similar ac-*
13 *tivity—*

14 *(i) of a United States visa or*
15 *United States passport;*

16 *(ii) of documents intended to*
17 *help fraudulently procure a*
18 *United States visa or United*
19 *States passport, or other docu-*
20 *ments intended to gain unlawful*
21 *entry into the United States; or*

22 *(iii) of passports and visas*
23 *issued by foreign countries in-*
24 *tended to gain unlawful entry into*
25 *the United States.*

1 ***(B) EMPHASIS.—Such plan shall—***

2 ***(i) focus particular emphasis***
3 ***on individuals and organizations***
4 ***that may have links to domestic***
5 ***terrorist organizations or foreign***
6 ***terrorist organizations (as such***
7 ***term is defined in Section 219 of***
8 ***the Immigration and Nationality***
9 ***Act (8 U.S.C. 1189));***

10 ***(ii) require the development of***
11 ***a strategic training course under***
12 ***the Antiterrorism Assistance***
13 ***Training (ATA) program of the***
14 ***Department of State (or any suc-***
15 ***cessor or related program) under***
16 ***chapter 8 of part II of the Foreign***
17 ***Assistance Act of 1961 (22 U.S.C.***
18 ***2349aa et seq.) (or other relevant***
19 ***provisions of law) to train partici-***
20 ***pants in the identification of***
21 ***fraudulent documents and the fo-***
22 ***rensic detection of such docu-***
23 ***ments which may be used to ob-***
24 ***tain unlawful entry into the***
25 ***United States; and***

1 (iii) *determine the benefits*
2 *and costs of providing technical*
3 *assistance to foreign governments*
4 *to ensure the security of passports,*
5 *visas, and related documents and*
6 *to investigate, arrest, and pros-*
7 *ecute individuals who facilitate*
8 *travel by the creation of false*
9 *passports and visas, documents to*
10 *obtain such passports and visas,*
11 *and other types of travel docu-*
12 *ments.*

13 (2) *DUTIES OF OFFICE.—The Office*
14 *shall have the following duties:*

15 (A) *ANALYSIS OF METHODS.—Ana-*
16 *lyze methods used by terrorists to trav-*
17 *el internationally, particularly the*
18 *use of false or altered travel docu-*
19 *ments to illegally enter foreign coun-*
20 *tries and the United States, and ad-*
21 *vice the Bureau of Consular Affairs on*
22 *changes to the visa issuance process*
23 *that could combat such methods, in-*
24 *cluding the introduction of new tech-*
25 *nologies into such process.*

1 **(B) IDENTIFICATION OF INDIVIDUALS**
2 **AND DOCUMENTS.—Identify, in coopera-**
3 **tion with the Human Trafficking and**
4 **Smuggling Center, individuals who**
5 **facilitate travel by the creation of**
6 **false passports and visas, documents**
7 **used to obtain such passports and**
8 **visas, and other types of travel docu-**
9 **ments, and ensure that the appro-**
10 **priate agency is notified for further**
11 **investigation and prosecution or, in**
12 **the case of such individuals abroad**
13 **for which no further investigation or**
14 **prosecution is initiated, ensure that**
15 **all appropriate information is shared**
16 **with foreign governments in order to**
17 **facilitate investigation, arrest, and**
18 **prosecution of such individuals.**

19 **(C) IDENTIFICATION OF FOREIGN**
20 **COUNTRIES NEEDING ASSISTANCE.—Iden-**
21 **tify foreign countries that need tech-**
22 **nical assistance, such as law reform,**
23 **administrative reform, prosecutorial**
24 **training, or assistance to police and**
25 **other investigative services, to ensure**

1 *passport, visa, and related document*
2 *security and to investigate, arrest,*
3 *and prosecute individuals who facili-*
4 *tate travel by the creation of false*
5 *passports and visas, documents used*
6 *to obtain such passports and visas,*
7 *and other types of travel documents.*

8 **(D) INSPECTION OF APPLICATIONS.—**
9 *Randomly inspect visa and passport*
10 *applications for accuracy, efficiency,*
11 *and fraud, especially at high terrorist*
12 *threat posts, in order to prevent a re-*
13 *currence of the issuance of visas to*
14 *those who submit incomplete, fraudu-*
15 *lent, or otherwise irregular or incom-*
16 *plete applications.*

17 **(3) REPORT.—***Not later than 90 days*
18 *after the date of the enactment of this Act,*
19 *the Deputy Assistant Secretary shall sub-*
20 *mit to Congress a report containing—*

21 **(A)** *a description of the strategic*
22 *plan prepared under paragraph (1);*
23 *and*

24 **(B)** *an evaluation of the feasibility*
25 *of establishing civil service positions*

1 *in field offices of the Bureau of Diplo-*
2 *matic Security to investigate visa and*
3 *passport fraud, including an evalua-*
4 *tion of whether to allow diplomatic se-*
5 *curity agents to convert to civil service*
6 *officers to fill such positions.*

7 ***Subtitle D—Terrorist Travel***

8 SEC. 3101. INFORMATION SHARING AND COORDINATION.

9 *The Secretary of Homeland Security shall*
10 *establish a mechanism to—*

11 *(1) ensure the coordination and dis-*
12 *semination of terrorist travel intelligence*
13 *and operational information among the*
14 *appropriate agencies within the Depart-*
15 *ment of Homeland Security, including the*
16 *Bureau of Customs and Border Protection,*
17 *the Bureau of Immigration and Customs*
18 *Enforcement, the Bureau of Citizenship*
19 *and Immigration Services, the Transpor-*
20 *tation Security Administration, the Coast*
21 *Guard, and other agencies as directed by*
22 *the Secretary; and*

23 *(2) ensure the sharing of terrorist*
24 *travel intelligence and operational infor-*
25 *mation with the Department of State, the*

1 ***National counterterrorism Center, and***
2 ***other appropriate Federal agencies.***

3 ***SEC. 3102. TERRORIST TRAVEL PROGRAM.***

4 ***The Secretary of Homeland Security shall***
5 ***establish a program to—***

6 ***(1) analyze and utilize information***
7 ***and intelligence regarding terrorist travel***
8 ***tactics, patterns, trends, and practices;***
9 ***and***

10 ***(2) disseminate that information to all***
11 ***front-line Department of Homeland Secu-***
12 ***rity personnel who are at ports of entry or***
13 ***between ports of entry, to immigration***
14 ***benefits offices, and, in coordination with***
15 ***the Secretary of State, to appropriate in-***
16 ***dividuals at United States embassies and***
17 ***consulates.***

18 ***SEC. 3103. TRAINING PROGRAM.***

19 ***(a) REVIEW, EVALUATION, AND REVISION OF***
20 ***EXISTING TRAINING PROGRAMS.—The Secretary***
21 ***of Homeland Security shall—***

22 ***(1) review and evaluate the training***
23 ***currently provided to Department of***
24 ***Homeland Security personnel and, in con-***
25 ***sultation with the Secretary of State, rel-***

1 *evant Department of State personnel with*
2 *respect to travel and identity documents,*
3 *and techniques, patterns, and trends asso-*
4 *ciated with terrorist travel; and*

5 *(2) develop and implement a revised*
6 *training program for border, immigra-*
7 *tion, and consular officials in order to*
8 *teach such officials how to effectively de-*
9 *tect, intercept, and disrupt terrorist trav-*
10 *el.*

11 *(b) REQUIRED TOPICS OF REVISED PRO-*
12 *GRAMS.—The training program developed*
13 *under subsection (a)(2) shall include training*
14 *in the following areas:*

15 *(1) Methods for identifying fraudulent*
16 *and genuine travel documents.*

17 *(2) Methods for detecting terrorist in-*
18 *dicators on travel documents and other*
19 *relevant identity documents.*

20 *(3) Recognizing travel patterns, tac-*
21 *tics, and behaviors exhibited by terrorists.*

22 *(4) Effectively utilizing information*
23 *contained in databases and data systems*
24 *available to the Department of Homeland*
25 *Security.*

1 ***(5) Other topics determined to be ap-***
2 ***propriate by the Secretary of Homeland***
3 ***Security in consultation with the Sec-***
4 ***retary of State or the National Intel-***
5 ***ligence Director.***

6 **SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINA-**
7 **TION PLAN.**

8 ***(a) PLAN REQUIRED.—Not later than 180***
9 ***days after the date of the enactment of this***
10 ***Act, the Secretary of Homeland Security, in***
11 ***consultation with the Secretary of State, shall***
12 ***submit to the Congress a plan to ensure that***
13 ***the Department of Homeland Security and the***
14 ***Department of State acquire and deploy, to all***
15 ***consulates, ports of entry, and immigration***
16 ***benefits offices, technologies that facilitate***
17 ***document authentication and the detection of***
18 ***potential terrorist indicators on travel docu-***
19 ***ments.***

20 ***(b) INTEROPERABILITY REQUIREMENT.—To***
21 ***the extent possible, technologies to be acquired***
22 ***and deployed under the plan shall be compat-***
23 ***ible with current systems used by the Depart-***
24 ***ment of Homeland Security to detect and iden-***

1 *tify fraudulent documents and genuine docu-*
 2 *ments.*

3 (c) *PASSPORT SCREENING.—The plan shall*
 4 *address the feasibility of using such tech-*
 5 *nologies to screen passports submitted for*
 6 *identification purposes to a United States con-*
 7 *sular, border, or immigration official.*

8 ***Subtitle E—Maritime Security***
 9 ***Requirements***

10 *SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-*
 11 *TIME SECURITY REQUIREMENTS.*

12 (a) *NATIONAL MARITIME TRANSPORTATION*
 13 *SECURITY PLAN.—Section 70103(a) of the 46,*
 14 *United States Code, is amended by striking*
 15 *“The Secretary” and inserting “Not later than*
 16 *December 31, 2004, the Secretary”.*

17 (b) *FACILITY AND VESSEL VULNERABILITY AS-*
 18 *SESSMENTS.—Section 70102(b)(1) of the 46,*
 19 *United States Code, is amended by striking “,*
 20 *the Secretary” and inserting “and by not later*
 21 *than December 31, 2004, the Secretary”.*

22 (c) *TRANSPORTATION SECURITY CARD REGU-*
 23 *LATIONS.—Section 70105(a) of the 46, United*
 24 *States Code, is amended by striking “The Sec-*

1 *retary” and inserting “Not later than Decem-*
2 *ber 31, 2004, the Secretary”.*

3 ***TITLE IV—INTERNATIONAL CO-***
4 ***OPERATION AND COORDINA-***
5 ***TION***

6 ***Subtitle A—Attack Terrorists and***
7 ***Their Organizations***

8 ***CHAPTER 1—PROVISIONS RELATING TO***
9 ***TERRORIST SANCTUARIES***

10 ***SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-***
11 ***TUARIES.***

12 ***It is the sense of Congress that it should***
13 ***be the policy of the United States—***

14 ***(1) to identify and prioritize foreign***
15 ***countries that are or that could be used***
16 ***as terrorist sanctuaries;***

17 ***(2) to assess current United States re-***
18 ***sources being provided to such foreign***
19 ***countries;***

20 ***(3) to develop and implement a coordi-***
21 ***nated strategy to prevent terrorists from***
22 ***using such foreign countries as sanc-***
23 ***tuaries; and***

1 ***(4) to work in bilateral and multilat-***
2 ***eral fora to prevent foreign countries from***
3 ***being used as terrorist sanctuaries.***

4 ***SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.***

5 ***(a) INITIAL REPORT.—***

6 ***(1) IN GENERAL.—Not later than 90***
7 ***days after the date of the enactment of***
8 ***this Act, the President shall transmit to***
9 ***Congress a report that describes a strat-***
10 ***egy for addressing and, where possible,***
11 ***eliminating terrorist sanctuaries.***

12 ***(2) CONTENT.—The report required***
13 ***under this subsection shall include the***
14 ***following:***

15 ***(A) A list that prioritizes each ac-***
16 ***tual and potential terrorist sanctuary***
17 ***and a description of activities in the***
18 ***actual and potential sanctuaries.***

19 ***(B) An outline of strategies for***
20 ***preventing the use of, disrupting, or***
21 ***ending the use of such sanctuaries.***

22 ***(C) A detailed description of ef-***
23 ***forts, including an assessment of suc-***
24 ***cesses and setbacks, by the United***
25 ***States to work with other countries in***

1 *bilateral and multilateral fora to ad-*
2 *dress or eliminate each actual or po-*
3 *tential terrorist sanctuary and dis-*
4 *rupt or eliminate the security pro-*
5 *vided to terrorists by each such sanc-*
6 *tuary.*

7 *(D) A description of long-term*
8 *goals and actions designed to reduce*
9 *the conditions that allow the forma-*
10 *tion of terrorist sanctuaries.*

11 ***(b) SUBSEQUENT REPORTS.—***

12 ***(1) REQUIREMENT OF REPORTS.—Section***
13 ***140(a)(1) of the Foreign Relations Author-***
14 ***ization Act, Fiscal Years 1988 and 1989***
15 ***(22 U.S.C. 2656f(a)(1)) is amended—***

16 ***(A) by striking “(1)” and inserting***
17 ***“(1)(A)”;***

18 ***(B) by redesignating subpara-***
19 ***graphs (A) through (C) as clauses (i)***
20 ***through (iii), respectively;***

21 ***(C) in subparagraph (A)(iii) (as***
22 ***redesignated), by adding “and” at the***
23 ***end; and***

24 ***(D) by adding at the end the fol-***
25 ***lowing:***

1 “(B) *detailed assessments with respect*
2 *to each foreign country whose territory is*
3 *being used or could potentially be used as*
4 *a sanctuary for terrorists or terrorist or-*
5 *ganizations;*”.

6 (2) *PROVISIONS TO BE INCLUDED IN RE-*
7 *PORT.—Section 140(b) of such Act (22*
8 *U.S.C. 2656f(b)) is amended—*

9 (A) *in paragraph (1)—*

10 (i) *in the matter preceding*
11 *subparagraph (A), by striking*
12 *“subsection (a)(1)” and inserting*
13 *“subsection (a)(1)(A)”;* and

14 (ii) *by striking “and” at the*
15 *end;*

16 (B) *by redesignating paragraph*
17 *(2) as paragraph (3);*

18 (C) *by inserting after paragraph*
19 *(1) the following:*

20 “(2) *with respect to subsection*
21 *(a)(1)(B)—*

22 “(A) *the extent of knowledge by the*
23 *government of the country with re-*
24 *spect to terrorist activities in the terri-*
25 *tory of the country; and*

1 “(B) *the actions by the country—*

2 *“(i) to eliminate each terrorist*
3 *sanctuary in the territory of the*
4 *country;*

5 *“(ii) to cooperate with United*
6 *States antiterrorism efforts; and*

7 *“(iii) to prevent the prolifera-*
8 *tion of and trafficking in weapons*
9 *of mass destruction in and*
10 *through the territory of the coun-*
11 *try;”;*

12 *(D) by striking the period at the*
13 *end of paragraph (3) (as redesign-*
14 *ated) and inserting a semicolon; and*

15 *(E) by inserting after paragraph*
16 *(3) (as redesignated) the following:*

17 *“(4) a strategy for addressing and,*
18 *where possible, eliminating terrorist sanc-*
19 *tuaries that shall include—*

20 *“(A) a description of actual and*
21 *potential terrorist sanctuaries, to-*
22 *gether with an assessment of the pri-*
23 *orities of addressing and eliminating*
24 *such sanctuaries;*

1 “(B) *an outline of strategies for*
2 *disrupting or eliminating the security*
3 *provided to terrorists by such sanc-*
4 *tuaries;*

5 “(C) *a description of efforts by the*
6 *United States to work with other*
7 *countries in bilateral and multilat-*
8 *eral fora to address or eliminate ac-*
9 *tual or potential terrorist sanctuaries*
10 *and disrupt or eliminate the security*
11 *provided to terrorists by such sanc-*
12 *tuaries; and*

13 “(D) *a description of long-term*
14 *goals and actions designed to reduce*
15 *the conditions that allow the forma-*
16 *tion of terrorist sanctuaries;*

17 “(5) *an update of the information con-*
18 *tained in the report required to be trans-*
19 *mitted to Congress pursuant to section*
20 *4002(a)(2) of the 9/11 Recommendations*
21 *Implementation Act;*

22 “(6) *to the extent practicable, complete*
23 *statistical information on the number of*
24 *individuals, including United States citi-*
25 *zens and dual nationals, killed, injured,*

1 *or kidnapped by each terrorist group dur-*
2 *ing the preceding calendar year; and*

3 *“(7) an analysis, as appropriate, relat-*
4 *ing to trends in international terrorism,*
5 *including changes in technology used,*
6 *methods and targets of attacks, demo-*
7 *graphic information on terrorists, and*
8 *other appropriate information.”.*

9 (3) *DEFINITIONS.—Section 140(d) of*
10 *such Act (22 U.S.C. 2656f(d)) is amended—*

11 (A) *in paragraph (2), by striking*
12 *“and” at the end;*

13 (B) *in paragraph (3), by striking*
14 *the period at the end and inserting a*
15 *semicolon; and*

16 (C) *by adding at the end the fol-*
17 *lowing:*

18 *“(4) the term ‘territory’ and ‘territory*
19 *of the country’ means the land, waters,*
20 *and airspace of the country; and*

21 *“(5) the term ‘terrorist sanctuary’ or*
22 *‘sanctuary’ means an area in the territory*
23 *of a country that is used by a terrorist*
24 *group with the express or implied consent*
25 *of the government of the country—*

1 “(A) *to carry out terrorist activi-*
2 *ties, including training, fundraising,*
3 *financing, recruitment, and education*
4 *activities; or*

5 “(B) *to provide transit through the*
6 *country.”.*

7 (4) *EFFECTIVE DATE.—The amendments*
8 *made by paragraphs (1), (2), and (3) apply*
9 *with respect to the report required to be*
10 *transmitted under section 140 of the For-*
11 *ign Relations Authorization Act, Fiscal*
12 *Years 1988 and 1989, by April 30, 2006,*
13 *and by April 30 of each subsequent year.*

14 *SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE*
15 *TERRORIST SANCTUARIES.*

16 (a) *AMENDMENTS.—Section 6(j) of the Ex-*
17 *port Administration Act of 1979 (50 U.S.C. App.*
18 *2405(j)) is amended—*

19 (1) *in paragraph (1)—*

20 (A) *by redesignating subpara-*
21 *graph (B) as subparagraph (C); and*

22 (B) *by inserting after subpara-*
23 *graph (A) the following:*

1 “(B) Any part of the territory of the
2 country is being used as a sanctuary for
3 terrorists or terrorist organizations.”;

4 (2) in paragraph (3), by striking
5 “paragraph (1)(A)” and inserting “sub-
6 paragraph (A) or (B) of paragraph (1)”;

7 (3) by redesignating paragraph (5) as
8 paragraph (6);

9 (4) by inserting after paragraph (4)
10 the following:

11 “(5) A determination made by the Sec-
12 retary of State under paragraph (1)(B) may
13 not be rescinded unless the President submits
14 to the Speaker of the House of Representatives
15 and the chairman of the Committee on Bank-
16 ing, Housing, and Urban Affairs and the
17 chairman of the Committee on Foreign Rela-
18 tions of the Senate before the proposed rescis-
19 sion would take effect a report certifying that
20 the government of the country concerned —

21 “(A) is taking concrete, verifiable
22 steps to eliminate each terrorist sanctuary
23 in the territory of the country;

24 “(B) is cooperating with United States
25 antiterrorism efforts; and

1 “(C) *is taking all appropriate actions*
2 *to prevent the proliferation of and traf-*
3 *ficking in weapons of mass destruction in*
4 *and through the territory of the country.”;*
5 *and*

6 (5) *by inserting after paragraph (6)*
7 *(as redesignated) the following:*

8 “(7) *In this subsection—*

9 “(A) *the term ‘territory of the country’*
10 *means the land, waters, and airspace of*
11 *the country; and*

12 “(B) *the term ‘terrorist sanctuary’ or*
13 *‘sanctuary’ means an area in the territory*
14 *of a country that is used by a terrorist*
15 *group with the express or implied consent*
16 *of the government of the country—*

17 “(i) *to carry out terrorist activi-*
18 *ties, including training, fundraising,*
19 *financing, recruitment, and education*
20 *activities; or*

21 “(ii) *to provide transit through the*
22 *country.”.*

23 (b) *IMPLEMENTATION.—The President shall*
24 *implement the amendments made by sub-*
25 *section (a) by exercising the authorities the*

1 *President has under the International Emer-*
2 *gency Economic Powers Act (50 U.S.C. 1701 et*
3 *seq.).*

4 **CHAPTER 2—OTHER PROVISIONS**

5 **SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS**
6 **CONTROL AND NONPROLIFERATION ADVI-**
7 **SORY BOARD.**

8 **(a) REQUIREMENT.—***Not later than Decem-*
9 *ber 31, 2004, the Secretary of State shall ap-*
10 *point individuals to the Arms Control and*
11 *Nonproliferation Advisory Board to fill all va-*
12 *cancies in the membership of the Board that*
13 *exist on the date of the enactment of this Act.*

14 **(b) CONSULTATION.—***Appointments to the*
15 *Board under subsection (a) shall be made in*
16 *consultation with the Committee on Inter-*
17 *national Relations of the House of Representa-*
18 *tives and the Committee on Foreign Relations*
19 *of the Senate.*

20 **SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**
21 **LIFERATION OF WEAPONS OF MASS DESTRUC-**
22 **TION AND CONTROL OF STRATEGIC WEAP-**
23 **ONS.**

24 **(a) REVIEW.—**

1 ***(1) IN GENERAL.—The Undersecretary***
2 ***of State for Arms Control and Inter-***
3 ***national Security shall instruct the Arms***
4 ***Control and Nonproliferation Advisory***
5 ***Board (in this section referred to as the***
6 ***“Advisory Board”) to carry out a review of***
7 ***existing policies of the United States re-***
8 ***lating to the proliferation of weapons of***
9 ***mass destruction and the control of stra-***
10 ***tegic weapons.***

11 ***(2) COMPONENTS.—The review required***
12 ***under this subsection shall contain at a***
13 ***minimum the following:***

14 ***(A) An identification of all major***
15 ***deficiencies in existing United States***
16 ***policies relating to the proliferation of***
17 ***weapons of mass destruction and the***
18 ***control of strategic weapons.***

19 ***(B) Proposals that contain a***
20 ***range of options that if implemented***
21 ***would adequately address any signifi-***
22 ***cant threat deriving from the defi-***
23 ***ciencies in existing United States poli-***
24 ***cies described in subparagraph (A).***

25 ***(b) REPORTS.—***

1 **(1) INTERIM REPORT.**—*Not later than*
2 **June 15, 2005, the Advisory Board shall**
3 **prepare and submit to the Undersecretary**
4 **of State for Arms Control and Inter-**
5 **national Security an interim report that**
6 **contains the initial results of the review**
7 **carried out pursuant to subsection (a).**

8 **(2) FINAL REPORT.**—*Not later than De-*
9 **cember 1, 2005, the Advisory Board shall**
10 **prepare and submit to the Undersecretary**
11 **of State for Arms Control and Inter-**
12 **national Security, and to the Committee**
13 **on International Relations of the House of**
14 **Representatives and the Committee on**
15 **Foreign Relations of the Senate, a final**
16 **report that contains the comprehensive re-**
17 **sults of the review carried out pursuant to**
18 **subsection (a).**

19 **(c) EXPERTS AND CONSULTANTS.**—*In car-*
20 **rying out this section, the Advisory Board may**
21 **procure temporary and intermittent services of**
22 **experts and consultants, including experts**
23 **and consultants from nongovernmental orga-**
24 **nizations, under section 3109(b) of title 5,**
25 **United States Code.**

1 ***(d) FUNDING AND OTHER RESOURCES.—The***
 2 ***Secretary of State shall provide to the Advisory***
 3 ***Board an appropriate amount of funding and***
 4 ***other resources to enable the Advisory Board***
 5 ***to carry out this section.***

6 ***SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT***
 7 ***ACTS OF INTERNATIONAL TERRORISM.***

8 ***Section 1(e)(2) of the State Department***
 9 ***Basic Authorities Act of 1956 (22 U.S.C.***
 10 ***2651a(e)(2)), as amended by section 3091(b), is***
 11 ***further amended by adding at the end the fol-***
 12 ***lowing:***

13 ***“(D) ADDITIONAL DUTIES RELATING***
 14 ***TO INTERNATIONAL AGREEMENTS TO***
 15 ***INTERDICT ACTS OF INTERNATIONAL TER-***
 16 ***RORISM.—***

17 ***“(i) IN GENERAL.—In addition***
 18 ***to the principal duties of the Coor-***
 19 ***dinator described in subpara-***
 20 ***graph (B), the Coordinator, in***
 21 ***consultation with relevant United***
 22 ***States Government agencies, shall***
 23 ***seek to negotiate on a bilateral***
 24 ***basis international agreements***
 25 ***under which parties to an agree-***

1 *ment work in partnership to ad-*
2 *dress and interdict acts of inter-*
3 *national terrorism.*

4 “(ii) *TERMS OF INTERNATIONAL*
5 *AGREEMENT.—It is the sense of Con-*
6 *gress that—*

7 “(I) *each party to an inter-*
8 *national agreement referred to*
9 *in clause (i)—*

10 “(aa) *should be in full*
11 *compliance with United*
12 *Nations Security Council*
13 *Resolution 1373 (Sep-*
14 *tember 28, 2001), other ap-*
15 *propriate international*
16 *agreements relating to*
17 *antiterrorism measures,*
18 *and such other appro-*
19 *priate criteria relating to*
20 *antiterrorism measures;*

21 “(bb) *should sign and*
22 *adhere to a ‘counter-*
23 *terrorism Pledge’ and a*
24 *list of ‘Interdiction Prin-*
25 *ciples’, to be determined by*

1 *the parties to the agree-*
2 *ment;*

3 “(cc) *should identify*
4 *assets and agree to multi-*
5 *lateral efforts that maxi-*
6 *mizes the country’s*
7 *strengths and resources to*
8 *address and interdict acts*
9 *of international terrorism*
10 *or the financing of such*
11 *acts;*

12 “(dd) *should agree to*
13 *joint training exercises*
14 *among the other parties to*
15 *the agreement; and*

16 “(ee) *should agree to*
17 *the negotiation and imple-*
18 *mentation of other rel-*
19 *evant international agree-*
20 *ments and consensus-*
21 *based international stand-*
22 *ards; and*

23 “(II) *an international*
24 *agreement referred to in*
25 *clause (i) should contain pro-*

1 *visions that require the par-*
2 *ties to the agreement—*

3 *“(aa) to identify re-*
4 *gions throughout the*
5 *world that are emerging*
6 *terrorist threats;*

7 *“(bb) to establish ter-*
8 *rorism interdiction centers*
9 *in such regions and other*
10 *regions, as appropriate;*

11 *“(cc) to deploy ter-*
12 *rorism prevention teams to*
13 *such regions, including*
14 *United States-led teams;*
15 *and*

16 *“(dd) to integrate in-*
17 *telligence, military, and*
18 *law enforcement personnel*
19 *from countries that are*
20 *parties to the agreement*
21 *in order to work directly*
22 *with the regional centers*
23 *described in item (bb) and*
24 *regional teams described*
25 *in item (cc).”.*

1 **SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-**
2 **TENTION AND HUMANE TREATMENT OF CAP-**
3 **TURED TERRORISTS.**

4 ***It is the sense of Congress that the Presi-***
5 ***dent should pursue by all appropriate diplo-***
6 ***matic means with countries that are partici-***
7 ***pating in the Coalition to fight terrorism the***
8 ***development of an effective approach toward***
9 ***the detention and humane treatment of cap-***
10 ***tured terrorists. The effective approach re-***
11 ***ferred to in this section may, as appropriate,***
12 ***draw on Article 3 of the Convention Relative***
13 ***to the Treatment of Prisoners of War, done at***
14 ***Geneva on August 12, 1949 (6 UST 3316).***

15 **SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING**
16 **COUNTER-DRUG EFFORTS IN AFGHANISTAN.**

17 ***(a) SENSE OF CONGRESS.—It is the sense of***
18 ***Congress that—***

19 ***(1) the President should make the sub-***
20 ***stantial reduction of illegal drug produc-***
21 ***tion and trafficking in Afghanistan a pri-***
22 ***ority in the Global War on Terrorism;***

23 ***(2) the Secretary of Defense, in coordi-***
24 ***nation with the Secretary of State and the***
25 ***heads of other appropriate Federal agen-***
26 ***cies, should expand cooperation with the***

1 *Government of Afghanistan and inter-*
2 *national organizations involved in*
3 *counter-drug activities to assist in pro-*
4 *viding a secure environment for counter-*
5 *drug personnel in Afghanistan; and*

6 *(3) the United States, in conjunction*
7 *with the Government of Afghanistan and*
8 *coalition partners, should undertake ad-*
9 *ditional efforts to reduce illegal drug traf-*
10 *ficking and related activities that provide*
11 *financial support for terrorist organiza-*
12 *tions in Afghanistan and neighboring*
13 *countries.*

14 *(b) REPORT REQUIRED.—(1) The Secretary*
15 *of Defense and the Secretary of State shall*
16 *jointly prepare a report that describes—*

17 *(A) the progress made towards sub-*
18 *stantially reducing poppy cultivation and*
19 *heroin production capabilities in Afghan-*
20 *istan; and*

21 *(B) the extent to which profits from il-*
22 *legal drug activity in Afghanistan are*
23 *used to financially support terrorist orga-*
24 *nizations and groups seeking to under-*
25 *mine the Government of Afghanistan.*

1 ***(2) The report required by this subsection***
2 ***shall be submitted to Congress not later than***
3 ***120 days after the date of the enactment of this***
4 ***Act.***

5 ***Subtitle B—Prevent the Continued***
6 ***Growth of Terrorism***

7 ***CHAPTER 1—UNITED STATES PUBLIC***
8 ***DIPLOMACY***

9 ***SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC***
10 ***DIPLOMACY STRATEGY.***

11 ***(a) IN GENERAL.—The Secretary of State, in***
12 ***coordination with all appropriate Federal***
13 ***agencies, shall submit to the Committee on***
14 ***International Relations of the House of Rep-***
15 ***resentatives and the Committee on Foreign Re-***
16 ***lations of the Senate an annual assessment of***
17 ***the impact of public diplomacy efforts on tar-***
18 ***get audiences. Each assessment shall review***
19 ***the United States public diplomacy strategy***
20 ***worldwide and by region, including an exam-***
21 ***ination of the allocation of resources and an***
22 ***evaluation and assessment of the progress in,***
23 ***and barriers to, achieving the goals set forth***
24 ***under previous plans submitted under this sec-***
25 ***tion. Not later than March 15 of every year, the***

1 *Secretary shall submit the assessment re-*
2 *quired by this subsection.*

3 **(b) FURTHER ACTION.**— *On the basis of such*
4 *review, the Secretary, in coordination with all*
5 *appropriate Federal agencies, shall submit, as*
6 *part of the annual budget submission, a public*
7 *diplomacy strategy plan which specifies goals,*
8 *agency responsibilities, and necessary re-*
9 *sources and mechanisms for achieving such*
10 *goals during the next fiscal year. The plan*
11 *may be submitted in classified form.*

12 **SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

13 **(a) STATEMENT OF POLICY.**—*It should be the*
14 *policy of the United States:*

15 **(1)** *The Foreign Service should recruit*
16 *individuals with expertise and profes-*
17 *sional experience in public diplomacy.*

18 **(2)** *United States chiefs of mission*
19 *should have a prominent role in the for-*
20 *mulation of public diplomacy strategies*
21 *for the countries and regions to which*
22 *they are assigned and should be account-*
23 *able for the operation and success of pub-*
24 *lic diplomacy efforts at their posts.*

1 ***(3) Initial and subsequent training of***
2 ***Foreign Service officers should be en-***
3 ***hanced to include information and train-***
4 ***ing on public diplomacy and the tools and***
5 ***technology of mass communication.***

6 ***(b) PERSONNEL.—***

7 ***(1) QUALIFICATIONS.—In the recruit-***
8 ***ment, training, and assignment of mem-***
9 ***bers of the Foreign Service, the Secretary***
10 ***of State shall emphasize the importance***
11 ***of public diplomacy and applicable skills***
12 ***and techniques. The Secretary shall con-***
13 ***sider the priority recruitment into the***
14 ***Foreign Service, at middle-level entry, of***
15 ***individuals with expertise and profes-***
16 ***sional experience in public diplomacy,***
17 ***mass communications, or journalism. The***
18 ***Secretary shall give special consideration***
19 ***to individuals with language facility and***
20 ***experience in particular countries and re-***
21 ***gions.***

22 ***(2) LANGUAGES OF SPECIAL INTEREST.—***
23 ***The Secretary of State shall seek to in-***
24 ***crease the number of Foreign Service offi-***
25 ***cers proficient in languages spoken in***

1 *predominantly Muslim countries. Such in-*
2 *crease shall be accomplished through the*
3 *recruitment of new officers and incentives*
4 *for officers in service.*

5 SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUSLIM
6 COUNTRIES.

7 **(a) DECLARATION OF POLICY.**—Congress de-
8 *clares that the United States should commit to*
9 *a long-term and sustainable investment in*
10 *promoting engagement with people of all lev-*
11 *els of society in countries with predominantly*
12 *Muslim populations, particularly with youth*
13 *and those who influence youth. Such an invest-*
14 *ment should make use of the talents and re-*
15 *sources in the private sector and should in-*
16 *clude programs to increase the number of peo-*
17 *ple who can be exposed to the United States*
18 *and its fundamental ideas and values in order*
19 *to dispel misconceptions. Such programs*
20 *should include youth exchange programs,*
21 *young ambassadors programs, international*
22 *visitor programs, academic and cultural ex-*
23 *change programs, American Corner programs,*
24 *library programs, journalist exchange pro-*

1 *grams, sister city programs, and other pro-*
2 *grams related to people-to-people diplomacy.*

3 **(b) SENSE OF CONGRESS.**—*It is the sense of*
4 *Congress that the United States should signifi-*
5 *cantly increase its investment in the people-to-*
6 *people programs described in subsection (a).*

7 **SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PROMOTION**
8 **IN FOREIGN SERVICE.**

9 **(a) IN GENERAL.**—*Section 603(b) of the For-*
10 *ign Service Act of 1980 (22 U.S.C. 4003(b)) is*
11 *amended by adding at the end the following*
12 *new sentences: “The precepts for such selection*
13 *boards shall also consider whether the mem-*
14 *ber of the Service or the member of the Senior*
15 *Foreign Service, as the case may be, has served*
16 *in at least one position in which the primary*
17 *responsibility of such member was related to*
18 *public diplomacy. A member may not be pro-*
19 *moted into or within the Senior Foreign Serv-*
20 *ice if such member has not served in at least*
21 *one such position.”.*

22 **(b) EFFECTIVE DATE.**—*The amendment*
23 *made by subsection (a) shall take effect on*
24 *January 1, 2009.*

**CHAPTER 2—UNITED STATES
MULTILATERAL DIPLOMACY**

SEC. 4031. PURPOSE.

It is the purpose of this chapter to strengthen United States leadership and effectiveness at international organizations and multilateral institutions.

SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.

(a) IN GENERAL.—*The President, acting through the Secretary of State and the relevant United States chiefs of mission, shall—*

(1) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(2) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(b) PURPOSES OF THE CAUCUS.—*A democracy caucus at an international organization should—*

1 ***(1) forge common positions, including,***
2 ***as appropriate, at the ministerial level, on***
3 ***matters of concern before the organiza-***
4 ***tion and work within and across regional***
5 ***lines to promote agreed positions;***

6 ***(2) work to revise an increasingly out-***
7 ***moded system of membership selection, re-***
8 ***gional voting, and decision making; and***

9 ***(3) establish a rotational leadership***
10 ***agreement to provide member countries***
11 ***an opportunity, for a set period of time, to***
12 ***serve as the designated president of the***
13 ***caucus, responsible for serving as its voice***
14 ***in each organization.***

15 **SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-**
16 **NATIONAL ORGANIZATIONS.**

17 ***(a) UNITED STATES POLICY.—The President,***
18 ***acting through the Secretary of State, the rel-***
19 ***evant United States chiefs of mission, and,***
20 ***where appropriate, the Secretary of the Treas-***
21 ***ury, shall use the voice, vote, and influence of***
22 ***the United States to—***

23 ***(1) where appropriate, reform the cri-***
24 ***teria for leadership and, in appropriate***
25 ***cases, for membership, at all United Na-***

1 *tions bodies and at other international or-*
2 *ganizations and multilateral institutions*
3 *to which the United States is a member so*
4 *as to exclude countries that violate the*
5 *principles of the specific organization;*

6 *(2) make it a policy of the United Na-*
7 *tions and other international organiza-*
8 *tions and multilateral institutions of*
9 *which the United States is a member that*
10 *a member country may not stand in nomi-*
11 *nation for membership or in nomination*
12 *or in rotation for a leadership position in*
13 *such bodies if the member country is sub-*
14 *ject to sanctions imposed by the United*
15 *Nations Security Council; and*

16 *(3) work to ensure that no member*
17 *country stand in nomination for member-*
18 *ship, or in nomination or in rotation for a*
19 *leadership position in such organizations,*
20 *or for membership on the United Nations*
21 *Security Council, if the member country is*
22 *subject to a determination under section*
23 *6(j)(1)(A) of the Export Administration*
24 *Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)),*
25 *section 620A(a) of the Foreign Assistance*

1 *Act of 1961 (22 U.S.C. 2371(a)), or section*
2 *40(d) of the Arms Export Control Act (22*
3 *U.S.C. 2780(d)).*

4 ***(b) REPORT TO CONGRESS.—Not later than***
5 ***15 days after a country subject to a determina-***
6 ***tion under one or more of the provisions of law***
7 ***specified in subsection (a)(3) is selected for***
8 ***membership or a leadership post in an inter-***
9 ***national organization of which the United***
10 ***States is a member or for membership on the***
11 ***United Nations Security Council, the Secretary***
12 ***of State shall submit to the Committee on***
13 ***International Relations of the House of Rep-***
14 ***resentatives and the Committee on Foreign Re-***
15 ***lations of the Senate a report on any steps***
16 ***taken pursuant to subsection (a)(3).***

17 ***SEC. 4034. INCREASED TRAINING IN MULTILATERAL DIPLO-***
18 ***MACY.***

19 ***(a) TRAINING PROGRAMS.—Section 708 of***
20 ***the Foreign Service Act of 1980 (22 U.S.C. 4028)***
21 ***is amended by adding at the end the following***
22 ***new subsection:***

23 ***“(c) TRAINING IN MULTILATERAL DIPLO-***
24 ***MACY.—***

1 “(1) *IN GENERAL.—The Secretary shall*
2 *establish a series of training courses for*
3 *officers of the Service, including appro-*
4 *prate chiefs of mission, on the conduct of*
5 *diplomacy at international organizations*
6 *and other multilateral institutions and at*
7 *broad-based multilateral negotiations of*
8 *international instruments.*

9 “(2) *PARTICULAR PROGRAMS.—The Sec-*
10 *retary shall ensure that the training de-*
11 *scribed in paragraph (1) is provided at*
12 *various stages of the career of members of*
13 *the service. In particular, the Secretary*
14 *shall ensure that after January 1, 2006—*

15 “(A) *officers of the Service receive*
16 *training on the conduct of diplomacy*
17 *at international organizations and*
18 *other multilateral institutions and at*
19 *broad-based multilateral negotiations*
20 *of international instruments as part*
21 *of their training upon entry into the*
22 *Service; and*

23 “(B) *officers of the Service, includ-*
24 *ing chiefs of mission, who are as-*
25 *signed to United States missions rep-*

1 *representing the United States to inter-*
2 *national organizations and other*
3 *multilateral institutions or who are*
4 *assigned in Washington, D.C., to posi-*
5 *tions that have as their primary re-*
6 *sponsibility formulation of policy to-*
7 *wards such organizations and institu-*
8 *tions or towards participation in*
9 *broad-based multilateral negotiations*
10 *of international instruments, receive*
11 *specialized training in the areas de-*
12 *scribed in paragraph (1) prior to be-*
13 *ginning of service for such assignment*
14 *or, if receiving such training at that*
15 *time is not practical, within the first*
16 *year of beginning such assignment.”.*

17 **(b) TRAINING FOR CIVIL SERVICE EMPLOY-**
18 *EES.—The Secretary shall ensure that employ-*
19 *ees of the Department of State who are mem-*
20 *bers of the civil service and who are assigned*
21 *to positions described in section 708(c) of the*
22 *Foreign Service Act of 1980 (as amended by*
23 *subsection (a)) receive training described in*
24 *such section.*

1 **(c) CONFORMING AMENDMENTS.—Section 708**
 2 ***of such Act is further amended—***

3 **(1) in subsection (a), by striking “(a)**
 4 ***The” and inserting “(a) TRAINING ON***
 5 ***HUMAN RIGHTS.—The”; and***

6 **(2) in subsection (b), by striking “(b)**
 7 ***The” and inserting “(b) TRAINING ON REF-***
 8 ***UGEE LAW AND RELIGIOUS PERSECUTION.—***
 9 ***The”.***

10 ***SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF OF-***
 11 ***FICE ON MULTILATERAL NEGOTIATIONS.***

12 **(a) ESTABLISHMENT OF OFFICE.—The Sec-**
 13 ***retary of State is authorized to establish, with-***
 14 ***in the Bureau of International Organizational***
 15 ***Affairs, an Office on Multilateral Negotiations***
 16 ***to be headed by a Special Representative for***
 17 ***Multilateral Negotiations (in this section re-***
 18 ***ferred to as the “Special Representative”).***

19 **(b) APPOINTMENT.—The Special Represent-**
 20 ***ative shall be appointed by the President and***
 21 ***shall have the rank of Ambassador-at-Large.***
 22 ***At the discretion of the President another offi-***
 23 ***cial at the Department may serve as the Spe-***
 24 ***cial Representative.***

1 ***(c) STAFFING.—The Special Representative***
2 ***shall have a staff of Foreign Service and civil***
3 ***service officers skilled in multilateral diplo-***
4 ***macy.***

5 ***(d) DUTIES.—The Special Representative***
6 ***shall have the following responsibilities:***

7 ***(1) IN GENERAL.—The primary respon-***
8 ***sibility of the Special Representative shall***
9 ***be to assist in the organization of, and***
10 ***preparation for, United States participa-***
11 ***tion in multilateral negotiations, includ-***
12 ***ing advocacy efforts undertaken by the***
13 ***Department of State and other United***
14 ***States Government agencies.***

15 ***(2) CONSULTATIONS.—The Special Rep-***
16 ***resentative shall consult with Congress,***
17 ***international organizations, nongovern-***
18 ***mental organizations, and the private sec-***
19 ***tor on matters affecting multilateral ne-***
20 ***gotiations.***

21 ***(3) ADVISORY ROLE.—The Special Rep-***
22 ***resentative shall advise the Assistant Sec-***
23 ***retary for International Organizational***
24 ***Affairs and, as appropriate, the Secretary***
25 ***of State, regarding advocacy at inter-***

1 *national organizations, multilateral insti-*
2 *tutions, and negotiations, and shall make*
3 *recommendations regarding—*

4 (A) *effective strategies (and tac-*
5 *tics) to achieve United States policy*
6 *objectives at multilateral negotia-*
7 *tions;*

8 (B) *the need for and timing of*
9 *high level intervention by the Presi-*
10 *dent, the Secretary of State, the Dep-*
11 *uty Secretary of State, and other*
12 *United States officials to secure sup-*
13 *port from key foreign government offi-*
14 *cials for United States positions at*
15 *such organizations, institutions, and*
16 *negotiations; and*

17 (C) *the composition of United*
18 *States delegations to multilateral ne-*
19 *gotiations.*

20 (4) *ANNUAL DIPLOMATIC MISSIONS OF*
21 *MULTILATERAL ISSUES.—The Special Rep-*
22 *resentative, in coordination with the As-*
23 *istant Secretary for International Orga-*
24 *nizational Affairs, shall organize annual*
25 *diplomatic missions to appropriate for-*

1 *eign countries to conduct consultations*
2 *between principal officers responsible for*
3 *advising the Secretary of State on inter-*
4 *national organizations and high-level*
5 *representatives of the governments of such*
6 *foreign countries to promote the United*
7 *States agenda at the United Nations Gen-*
8 *eral Assembly and other key international*
9 *fora (such as the United Nations Human*
10 *Rights Commission).*

11 (5) *LEADERSHIP AND MEMBERSHIP OF*
12 *INTERNATIONAL ORGANIZATIONS.—The Spe-*
13 *cial Representative, in coordination with*
14 *the Assistant Secretary of International*
15 *Organizational Affairs, shall direct the*
16 *efforts of the United States to reform the*
17 *criteria for leadership of and membership*
18 *in international organizations as de-*
19 *scribed in section 4033.*

20 (6) *PARTICIPATION IN MULTILATERAL NE-*
21 *GOTIATIONS.—The Secretary of State may*
22 *direct the Special Representative to serve*
23 *as a member of a United States delegation*
24 *to any multilateral negotiation.*

1 **(7) COORDINATION WITH THE DEPART-**
2 **MENT OF THE TREASURY.—**

3 **(A) COORDINATION AND CONSULTA-**
4 **TION.—***The Special Representative*
5 *shall coordinate and consult with the*
6 *relevant staff at the Department of the*
7 *Treasury in order to prepare rec-*
8 *ommendations for the Secretary of*
9 *State regarding multilateral negotia-*
10 *tions involving international finan-*
11 *cial institutions and other multilat-*
12 *eral financial policymaking bodies.*

13 **(B) NEGOTIATING AUTHORITY CLARI-**
14 **FIED.—***Notwithstanding any other pro-*
15 *vision of law, the Secretary of the*
16 *Treasury shall remain the lead rep-*
17 *resentative and lead negotiator for*
18 *the United States within the inter-*
19 *national financial institutions and*
20 *other multilateral financial policy-*
21 *making bodies.*

22 **(C) DEFINITIONS.—***In this para-*
23 **graph:**

24 **(i) INTERNATIONAL FINANCIAL**
25 **INSTITUTIONS.—***The term “inter-*

1 *national financial institutions”*
2 *has the meaning given in section*
3 *1701(c)(2) of the International Fi-*
4 *ancial Institutions Act.*

5 (ii) *OTHER MULTILATERAL FI-*
6 *NANCIAL POLICYMAKING BODIES.—*
7 *The term “other multilateral fi-*
8 *ancial policymaking bodies”*
9 *means—*

10 (I) *the Financial Action*
11 *Task Force at the Organiza-*
12 *tion for Economic Cooperation*
13 *and Development;*

14 (II) *the international net-*
15 *work of financial intelligence*
16 *units known as the “Egmont*
17 *Group”;*

18 (III) *the United States,*
19 *Canada, the United Kingdom,*
20 *France, Germany, Italy,*
21 *Japan, and Russia, when*
22 *meeting as the Group of Eight;*
23 *and*

24 (IV) *any other multilateral*
25 *financial policymaking group*

1 *in which the Secretary of the*
2 *Treasury represents the*
3 *United States.*

4 (iii) *FINANCIAL ACTION TASK*
5 *FORCE.—The term “Financial Ac-*
6 *tion Task Force” means the inter-*
7 *national grouping of countries*
8 *that meets periodically to address*
9 *issues related to money laun-*
10 *dering, terrorist financing, and*
11 *other financial crimes.*

12 **CHAPTER 3—OTHER PROVISIONS**

13 *SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO AMER-*
14 *ICAN-SPONSORED SCHOOLS IN PREDOMI-*
15 *NANTLY MUSLIM COUNTRIES TO PROVIDE*
16 *SCHOLARSHIPS.*

17 (a) *FINDINGS.—Congress finds the fol-*
18 *lowing:*

19 (1) *During the 2003–2004 school year,*
20 *the Office of Overseas Schools of the De-*
21 *partment of State is financially assisting*
22 *189 elementary and secondary schools in*
23 *foreign countries.*

24 (2) *American-sponsored elementary*
25 *and secondary schools are located in more*

1 *than 20 countries with significant Muslim*
2 *populations in the Near East, Africa,*
3 *South Asia, Central Asia, and East Asia.*

4 **(3) American-sponsored elementary**
5 *and secondary schools provide an Amer-*
6 *ican-style education in English, with cur-*
7 *ricula that typically include an emphasis*
8 *on the development of critical thinking*
9 *and analytical skills.*

10 **(b) PURPOSE.—***The United States has an in-*
11 *terest in increasing the level of financial sup-*
12 *port provided to American-sponsored elemen-*
13 *tary and secondary schools in predominantly*
14 *Muslim countries, in order to—*

15 **(1) increase the number of students in**
16 *such countries who attend such schools;*

17 **(2) increase the number of young peo-**
18 *ple who may thereby gain at any early age*
19 *an appreciation for the culture, society,*
20 *and history of the United States; and*

21 **(3) increase the number of young peo-**
22 *ple who may thereby improve their pro-*
23 *ficiency in the English language.*

24 **(c) PILOT PROGRAM AUTHORIZED.—***The Sec-*
25 *retary of State, acting through the Director of*

1 *the Office of Overseas Schools of the Depart-*
2 *ment of State, may conduct a pilot program to*
3 *make grants to American-sponsored elemen-*
4 *tary and secondary schools in predominantly*
5 *Muslim countries for the purpose of providing*
6 *full or partial merit-based scholarships to stu-*
7 *dents from lower- and middle-income families*
8 *of such countries to attend such schools.*

9 (d) *DETERMINATION OF ELIGIBLE STU-*
10 *DENTS.—For purposes of expending grant*
11 *funds, an American-sponsored elementary and*
12 *secondary school that receives a grant under*
13 *subsection (c) is authorized to establish cri-*
14 *teria to be implemented by such school to de-*
15 *termine what constitutes lower- and middle-*
16 *income families in the country (or region of the*
17 *country, if regional variations in income levels*
18 *in the country are significant) in which such*
19 *school is located.*

20 (e) *RESTRICTION ON USE OF FUNDS.—*
21 *Amounts appropriated to the Secretary of*
22 *State pursuant to the authorization of appro-*
23 *priations in subsection (h) shall be used for*
24 *the sole purpose of making grants under this*
25 *section, and may not be used for the adminis-*

1 *tration of the Office of Overseas Schools of the*
2 *Department of State or for any other activity*
3 *of the Office.*

4 (f) *VOLUNTARY PARTICIPATION.—Nothing in*
5 *this section shall be construed to require par-*
6 *ticipation in the pilot program by an Amer-*
7 *ican-sponsored elementary or secondary*
8 *school in a predominantly Muslim country.*

9 (g) *REPORT.—Not later than April 15, 2006,*
10 *the Secretary shall submit to the Committee on*
11 *International Relations of the House of Rep-*
12 *resentatives and the Committee on Foreign Re-*
13 *lations of the Senate a report on the pilot pro-*
14 *gram. The report shall assess the success of the*
15 *program, examine any obstacles encountered*
16 *in its implementation, and address whether it*
17 *should be continued, and if so, provide rec-*
18 *ommendations to increase its effectiveness.*

19 (h) *FUNDING.—There are authorized to be*
20 *appropriated to the Secretary of State such*
21 *sums as may be necessary for each of fiscal*
22 *years 2005, 2006, and 2007 to carry out this sec-*
23 *tion.*

1 *SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.*

2 *(a) FINDINGS.—Congress makes the fol-*
3 *lowing findings:*

4 *(1) Freedom of speech and freedom of*
5 *the press are fundamental human rights.*

6 *(2) The United States has a national*
7 *interest in promoting these freedoms by*
8 *supporting free media abroad, which is*
9 *essential to the development of free and*
10 *democratic societies consistent with our*
11 *own.*

12 *(3) Free media is undermined, endan-*
13 *gered, or nonexistent in many repressive*
14 *and transitional societies around the*
15 *world, including in Eurasia, Africa, and*
16 *the Middle East.*

17 *(4) Individuals lacking access to a*
18 *plurality of free media are vulnerable to*
19 *misinformation and propaganda and are*
20 *potentially more likely to adopt anti-*
21 *American views.*

22 *(5) Foreign governments have a re-*
23 *sponsibility to actively and publicly dis-*
24 *courage and rebut unprofessional and un-*
25 *ethical media while respecting journal-*
26 *istic integrity and editorial independence.*

1 ***(b) STATEMENTS OF POLICY.—It shall be the***
2 ***policy of the United States, acting through the***
3 ***Secretary of State, to—***

4 ***(1) ensure that the promotion of press***
5 ***freedoms and free media worldwide is a***
6 ***priority of United States foreign policy***
7 ***and an integral component of United***
8 ***States public diplomacy;***

9 ***(2) respect the journalistic integrity***
10 ***and editorial independence of free media***
11 ***worldwide; and***

12 ***(3) ensure that widely accepted stand-***
13 ***ards for professional and ethical journal-***
14 ***istic and editorial practices are employed***
15 ***when assessing international media.***

16 ***(c) GRANTS TO PRIVATE SECTOR GROUP TO***
17 ***ESTABLISH MEDIA NETWORK.—***

18 ***(1) IN GENERAL.—Grants made avail-***
19 ***able to the National Endowment for De-***
20 ***mocracy (NED) pursuant to paragraph (3)***
21 ***shall be used by NED to provide funding***
22 ***to a private sector group to establish and***
23 ***manage a free and independent media***
24 ***network in accordance with paragraph***
25 ***(2).***

1 ***(2) PURPOSE.—The purpose of the net-***
2 ***work shall be to provide an effective***
3 ***forum to convene a broad range of indi-***
4 ***viduals, organizations, and governmental***
5 ***participants involved in journalistic ac-***
6 ***tivities and the development of free and***
7 ***independent media to—***

8 ***(A) fund a clearinghouse to collect***
9 ***and share information concerning***
10 ***international media development and***
11 ***training;***

12 ***(B) improve research in the field***
13 ***of media assistance and program***
14 ***evaluation to better inform decisions***
15 ***regarding funding and program de-***
16 ***sign for government and private do-***
17 ***nors;***

18 ***(C) explore the most appropriate***
19 ***use of existing means to more effec-***
20 ***tively encourage the involvement of***
21 ***the private sector in the field of media***
22 ***assistance; and***

23 ***(D) identify effective methods for***
24 ***the development of a free and inde-***

1 *pendent media in societies in transi-*
2 *tion.*

3 **(3) FUNDING.**—*For grants made by the*
4 *Department of State to NED as authorized*
5 *by the National Endowment for Democ-*
6 *racy Act (Public Law 98–164, 97 Stat.*
7 *1039), there are authorized to be appro-*
8 *priated to the Secretary of State such*
9 *sums as may be necessary for each of fis-*
10 *cal years 2005, 2006, and 2007 to carry out*
11 *this section.*

12 **SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA**
13 **COVERAGE OF THE UNITED STATES.**

14 **(a) FINDINGS.**—*Congress finds the fol-*
15 *lowing:*

16 **(1) Biased or false media coverage of**
17 *the United States and its allies is a sig-*
18 *nificant factor encouraging terrorist acts*
19 *against the people of the United States.*

20 **(2) Public diplomacy efforts designed**
21 *to encourage an accurate understanding*
22 *of the people of the United States and the*
23 *policies of the United States are unlikely*
24 *to succeed if foreign publics are subjected*

1 *to unrelenting biased or false local media*
2 *coverage of the United States.*

3 (3) *Where freedom of the press exists*
4 *in foreign countries the United States can*
5 *combat biased or false media coverage by*
6 *responding in the foreign media or by*
7 *communicating directly to foreign publics*
8 *in such countries.*

9 (4) *Foreign governments which en-*
10 *courage biased or false media coverage of*
11 *the United States bear a significant de-*
12 *gree of responsibility for creating a cli-*
13 *mate within which terrorism can flourish.*
14 *Such governments are responsible for en-*
15 *couraging biased or false media coverage*
16 *if they—*

17 (A) *issue direct or indirect in-*
18 *structions to the media to publish bi-*
19 *ased or false information regarding*
20 *the United States;*

21 (B) *make deliberately biased or*
22 *false charges expecting that such*
23 *charges will be disseminated; or*

24 (C) *so severely constrain the abil-*
25 *ity of the media to express criticism of*

1 *any such government that one of the*
2 *few means of political expression*
3 *available is criticism of the United*
4 *States.*

5 **(b) STATEMENTS OF POLICY.—**

6 **(1) FOREIGN GOVERNMENTS.—***It shall be*
7 *the policy of the United States to regard*
8 *foreign governments as knowingly en-*
9 *gaged in unfriendly acts toward the*
10 *United States if such governments—*

11 **(A)** *instruct their state-owned or*
12 *influenced media to include content*
13 *that is anti-American or prejudicial*
14 *to the foreign and security policies of*
15 *the United States; or*

16 **(B)** *make deliberately false*
17 *charges regarding the United States*
18 *or permit false or biased charges*
19 *against the United States to be made*
20 *while constraining normal political*
21 *discourse.*

22 **(2) SEEKING MEDIA ACCESS; RESPONDING**
23 **TO FALSE CHARGES.—***It shall be the policy*
24 *of the United States to—*

1 ***(A) seek access to the media in for-***
2 ***eign countries on terms no less favor-***
3 ***able than those afforded any other***
4 ***foreign entity or on terms available to***
5 ***the foreign country in the United***
6 ***States; and***

7 ***(B) combat biased or false media***
8 ***coverage in foreign countries of the***
9 ***United States and its allies by re-***
10 ***sponding in the foreign media or by***
11 ***communicating directly to foreign***
12 ***publics.***

13 ***(c) RESPONSIBILITIES REGARDING BIASED OR***
14 ***FALSE MEDIA COVERAGE.—***

15 ***(1) SECRETARY OF STATE.—The Sec-***
16 ***retary of State shall instruct chiefs of mis-***
17 ***sion to report on and combat biased or***
18 ***false media coverage originating in or re-***
19 ***ceived in foreign countries to which such***
20 ***chiefs are posted. Based on such reports***
21 ***and other information available to the***
22 ***Secretary, the Secretary shall prioritize***
23 ***efforts to combat such media coverage,***
24 ***giving special attention to audiences***
25 ***where fostering popular opposition to ter-***

1 *rorism is most important and such media*
2 *coverage is most prevalent.*

3 (2) *CHIEFS OF MISSION.—Chiefs of mis-*
4 *sion shall have the following responsibil-*
5 *ities:*

6 (A) *Chiefs of mission shall give*
7 *strong priority to combatting biased*
8 *or false media reports in foreign coun-*
9 *tries to which such chiefs are posted*
10 *regarding the United States.*

11 (B) *Chiefs of mission posted to for-*
12 *eign countries in which freedom of the*
13 *press exists shall inform the govern-*
14 *ments of such countries of the policies*
15 *of the United States regarding biased*
16 *or false media coverage of the United*
17 *States, and shall make strong efforts*
18 *to persuade such governments to*
19 *change policies that encourage such*
20 *media coverage.*

21 (d) *REPORTS.—Not later than 120 days*
22 *after the date of the enactment of this Act and*
23 *at least annually thereafter until January 1,*
24 *2015, the Secretary shall submit to the Com-*
25 *mittee on International Relations of the House*

1 *of Representatives and the Committee on For-*
2 *ign Relations of the Senate a report regard-*
3 *ing the major themes of biased or false media*
4 *coverage of the United States in foreign coun-*
5 *tries, the actions taken to persuade foreign*
6 *governments to change policies that encourage*
7 *such media coverage (and the results of such*
8 *actions), and any other actions taken to com-*
9 *bat such media coverage in foreign countries.*

10 *SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.*

11 *(a) REPORT.—Not later than 180 days after*
12 *the date of the enactment of this Act, the Presi-*
13 *dent shall transmit to the Committee on Inter-*
14 *national Relations of the House of Representa-*
15 *tives and the Committee on Foreign Relations*
16 *of the Senate a report on the strategy of the*
17 *United States to expand its outreach to foreign*
18 *Muslim audiences through broadcast media.*

19 *(b) CONTENT.—The report required under*
20 *subsection (a) shall contain the following:*

21 *(1) An assessment of the Broadcasting*
22 *Board of Governors and the public diplo-*
23 *macy activities of the Department of State*
24 *with respect to outreach to foreign Muslim*
25 *audiences through broadcast media.*

1 ***(2) An outline of recommended actions***
2 ***that the United States should take to***
3 ***more regularly and comprehensively***
4 ***present a United States point of view***
5 ***through indigenous broadcast media in***
6 ***countries with sizeable Muslim popu-***
7 ***lations, including increasing appearances***
8 ***by United States Government officials, ex-***
9 ***perts, and citizens.***

10 ***(3) An assessment of potential incen-***
11 ***tives for, and costs associated with, en-***
12 ***couraging United States broadcasters to***
13 ***dub or subtitle into Arabic and other rel-***
14 ***evant languages their news and public af-***
15 ***fairs programs broadcast in Muslim coun-***
16 ***tries in order to present those programs to***
17 ***a much broader Muslim audience than is***
18 ***currently reached.***

19 ***(4) An assessment of providing a***
20 ***training program in media and press af-***
21 ***fairs for members of the Foreign Service.***

22 ***SEC. 4045. OFFICE RELOCATION.***

23 ***As soon as practicable after the date of the***
24 ***enactment of this Act, the Secretary of State***
25 ***shall take such actions as are necessary to***

1 *consolidate within the Harry S. Truman*
2 *Building all offices of the Department of State*
3 *that are responsible for the conduct of public*
4 *diplomacy, including the Bureau of Edu-*
5 *cational and Cultural Affairs.*

6 SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOC-
7 RACIES FOR MUSLIM COUNTRIES.

8 (a) SENSE OF CONGRESS.—*It is the sense of*
9 *Congress that the United States—*

10 (1) *should work with the Community*
11 *of Democracies to discuss, develop, and re-*
12 *fine policies and assistance programs to*
13 *support and promote political, economic,*
14 *judicial, educational, and social reforms*
15 *in Muslim countries;*

16 (2) *should, as part of that effort, se-*
17 *cure support to require countries seeking*
18 *membership in the Community of Democ-*
19 *racies to be in full compliance with the*
20 *Community's criteria for participation, as*
21 *established by the Community's Convening*
22 *Group, should work to ensure that the cri-*
23 *teria are part of a legally binding docu-*
24 *ment, and should urge other donor coun-*
25 *tries to use compliance with the criteria*

1 *as a basis for determining diplomatic and*
2 *economic relations (including assistance*
3 *programs) with such participating coun-*
4 *tries; and*

5 (3) *should seek support for inter-*
6 *national contributions to the Community*
7 *of Democracies and should seek authority*
8 *for the Community's Convening Group to*
9 *oversee adherence and compliance of par-*
10 *ticipating countries with the criteria.*

11 **(b) MIDDLE EAST PARTNERSHIP INITIATIVE**
12 **AND BROADER MIDDLE EAST AND NORTH AFRICA**
13 **INITIATIVE .—***Amounts made available to carry*
14 *out the Middle East Partnership Initiative and*
15 *the Broader Middle East and North Africa Ini-*
16 *tiative may be made available to the Commu-*
17 *nity of Democracies in order to strengthen and*
18 *expand its work with Muslim countries.*

19 **(c) REPORT.—***The Secretary of State shall*
20 *include in the annual report entitled “Sup-*
21 *porting Human Rights and Democracy: The*
22 *U.S. Record” a description of efforts by the*
23 *Community of Democracies to support and*
24 *promote political, economic, judicial, edu-*
25 *cational, and social reforms in Muslim coun-*

1 *tries and the extent to which such countries*
 2 *meet the criteria for participation in the Com-*
 3 *munity of Democracies.*

4 ***Subtitle C—Reform of Designation***
 5 ***of Foreign Terrorist Organizations***

6 ***SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGANI-***
 7 ***ZATIONS.***

8 ***(a) PERIOD OF DESIGNATION.—Section***
 9 ***219(a)(4) of the Immigration and Nationality***
 10 ***Act (8 U.S.C. 1189(a)(4)) is amended—***

11 ***(1) in subparagraph (A)—***

12 ***(A) by striking “Subject to para-***
 13 ***graphs (5) and (6), a” and inserting***
 14 ***“A”; and***

15 ***(B) by striking “for a period of 2***
 16 ***years beginning on the effective date***
 17 ***of the designation under paragraph***
 18 ***(2)(B)” and inserting “until revoked***
 19 ***under paragraph (5) or (6) or set***
 20 ***aside pursuant to subsection (c)”;***

21 ***(2) by striking subparagraph (B) and***
 22 ***inserting the following:***

23 ***“(B) REVIEW OF DESIGNATION UPON***
 24 ***PETITION.—***

1 “(i) *IN GENERAL.—The Sec-*
2 *retary shall review the designa-*
3 *tion of a foreign terrorist organi-*
4 *zation under the procedures set*
5 *forth in clauses (iii) and (iv) if the*
6 *designated organization files a pe-*
7 *tion for revocation within the pe-*
8 *tion period described in clause*
9 *(ii).*

10 “(ii) *PETITION PERIOD.—For*
11 *purposes of clause (i)—*

12 “(I) *if the designated orga-*
13 *nization has not previously*
14 *filed a petition for revocation*
15 *under this subparagraph, the*
16 *petition period begins 2 years*
17 *after the date on which the*
18 *designation was made; or*

19 “(II) *if the designated or-*
20 *ganization has previously*
21 *filed a petition for revocation*
22 *under this subparagraph, the*
23 *petition period begins 2 years*
24 *after the date of the deter-*

1 *mination made under clause*
2 *(iv) on that petition.*

3 *“(iii) PROCEDURES.—Any for-*
4 *ign terrorist organization that*
5 *submits a petition for revocation*
6 *under this subparagraph must*
7 *provide evidence in that petition*
8 *that the relevant circumstances*
9 *described in paragraph (1) have*
10 *changed in such a manner as to*
11 *warrant revocation with respect to*
12 *the organization.*

13 *“(iv) DETERMINATION.—*

14 *“(I) IN GENERAL.—Not later*
15 *than 180 days after receiving*
16 *a petition for revocation sub-*
17 *mitted under this subpara-*
18 *graph, the Secretary shall*
19 *make a determination as to*
20 *such revocation.*

21 *“(II) CLASSIFIED INFORMA-*
22 *TION.—The Secretary may con-*
23 *sider classified information in*
24 *making a determination in re-*
25 *sponse to a petition for revoca-*

1 *tion. Classified information*
2 *shall not be subject to disclo-*
3 *sure for such time as it re-*
4 *mains classified, except that*
5 *such information may be dis-*
6 *closed to a court ex parte and*
7 *in camera for purposes of ju-*
8 *dicial review under subsection*
9 *(c).*

10 *“(III) PUBLICATION OF DE-*
11 *TERMINATION.—A determina-*
12 *tion made by the Secretary*
13 *under this clause shall be pub-*
14 *lished in the Federal Register.*

15 *“(IV) PROCEDURES.—Any*
16 *revocation by the Secretary*
17 *shall be made in accordance*
18 *with paragraph (6).”;* and

19 *(3) by adding at the end the following:*

20 *“(C) OTHER REVIEW OF DESIGNA-*
21 *TION.—*

22 *“(i) IN GENERAL.—If in a 6-year*
23 *period no review has taken place*
24 *under subparagraph (B), the Sec-*
25 *retary shall review the designa-*

1 *tion of the foreign terrorist orga-*
2 *nization in order to determine*
3 *whether such designation should*
4 *be revoked pursuant to paragraph*
5 *(6).*

6 *“(ii) PROCEDURES.—If a review*
7 *does not take place pursuant to*
8 *subparagraph (B) in response to a*
9 *petition for revocation that is filed*
10 *in accordance with that subpara-*
11 *graph, then the review shall be*
12 *conducted pursuant to procedures*
13 *established by the Secretary. The*
14 *results of such review and the ap-*
15 *plicable procedures shall not be*
16 *reviewable in any court.*

17 *“(iii) PUBLICATION OF RESULTS*
18 *OF REVIEW.—The Secretary shall*
19 *publish any determination made*
20 *pursuant to this subparagraph in*
21 *the Federal Register.”.*

22 *(b) ALIASES.—Section 219 of the Immigra-*
23 *tion and Nationality Act (8 U.S.C. 1189) is*
24 *amended—*

1 ***(1) by redesignating subsections (b)***
2 ***and (c) as subsections (c) and (d), respec-***
3 ***tively; and***

4 ***(2) by inserting after subsection (a)***
5 ***the following new subsection (b):***

6 ***“(b) AMENDMENTS TO A DESIGNATION.—***

7 ***“(1) IN GENERAL.—The Secretary may***
8 ***amend a designation under this sub-***
9 ***section if the Secretary finds that the or-***
10 ***ganization has changed its name, adopted***
11 ***a new alias, dissolved and then reconsti-***
12 ***tuted itself under a different name or***
13 ***names, or merged with another organiza-***
14 ***tion.***

15 ***“(2) PROCEDURE.—Amendments made***
16 ***to a designation in accordance with para-***
17 ***graph (1) shall be effective upon publica-***
18 ***tion in the Federal Register. Subpara-***
19 ***graphs (B) and (C) of subsection (a)(2)***
20 ***shall apply to an amended designation***
21 ***upon such publication. Paragraphs***
22 ***(2)(A)(i), (4), (5), (6), (7), and (8) of sub-***
23 ***section (a) shall also apply to an amended***
24 ***designation.***

1 “(3) *ADMINISTRATIVE RECORD.*—*The ad-*
2 *ministrative record shall be corrected to*
3 *include the amendments as well as any*
4 *additional relevant information that sup-*
5 *ports those amendments.*

6 “(4) *CLASSIFIED INFORMATION.*—*The*
7 *Secretary may consider classified infor-*
8 *mation in amending a designation in ac-*
9 *cordance with this subsection. Classified*
10 *information shall not be subject to disclo-*
11 *sure for such time as it remains classified,*
12 *except that such information may be dis-*
13 *closed to a court ex parte and in camera*
14 *for purposes of judicial review under sub-*
15 *section (c).”.*

16 (c) *TECHNICAL AND CONFORMING AMEND-*
17 *MENTS.*—*Section 219 of the Immigration and*
18 *Nationality Act (8 U.S.C. 1189) is amended—*

19 (1) *in subsection (a)—*

20 (A) *in paragraph (3)(B), by strik-*
21 *ing “subsection (b)” and inserting*
22 *“subsection (c)”;*

23 (B) *in paragraph (6)(A)—*

24 (i) *in the matter preceding*
25 *clause (i), by striking “or a redes-*

1 *ignation made under paragraph*
2 *(4)(B)” and inserting “at any time,*
3 *and shall revoke a designation*
4 *upon completion of a review con-*
5 *ducted pursuant to subpara-*
6 *graphs (B) and (C) of paragraph*
7 *(4)”;* and

8 (ii) in clause (i), by striking
9 “or redesignation”;

10 (C) in paragraph (7), by striking “,
11 or the revocation of a redesignation
12 under paragraph (6),”; and

13 (D) in paragraph (8)—

14 (i) by striking “, or if a redес-
15 ignation under this subsection has
16 become effective under paragraph
17 (4)(B),”; and

18 (ii) by striking “or redesigna-
19 tion”; and

20 (2) in subsection (c), as so redesign-
21 nated—

22 (A) in paragraph (1), by striking
23 “of the designation in the Federal
24 Register,” and all that follows
25 through “review of the designation”

1 *and inserting “in the Federal Register*
2 *of a designation, an amended des-*
3 *ignation, or a determination in re-*
4 *sponse to a petition for revocation, the*
5 *designated organization may seek ju-*
6 *dicial review”;*

7 *(B) in paragraph (2), by inserting*
8 *“, amended designation, or determina-*
9 *tion in response to a petition for rev-*
10 *ocation” after “designation”;*

11 *(C) in paragraph (3), by inserting*
12 *“, amended designation, or determina-*
13 *tion in response to a petition for rev-*
14 *ocation” after “designation”; and*

15 *(D) in paragraph (4), by inserting*
16 *“, amended designation, or determina-*
17 *tion in response to a petition for rev-*
18 *ocation” after “designation” each*
19 *place that term appears.*

20 *(d) SAVINGS PROVISION.—For purposes of*
21 *applying section 219 of the Immigration and*
22 *Nationality Act on or after the date of enact-*
23 *ment of this Act, the term “designation”, as*
24 *used in that section, includes all redesigna-*
25 *tions made pursuant to section 219(a)(4)(B) of*

1 *the Immigration and Nationality Act (8 U.S.C.*
2 *1189(a)(4)(B)) prior to the date of enactment of*
3 *this Act, and such redesignations shall con-*
4 *tinue to be effective until revoked as provided*
5 *in paragraph (5) or (6) of section 219(a) of the*
6 *Immigration and Nationality Act (8 U.S.C.*
7 *1189(a)).*

8 *SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE*
9 *COUNTRY REPORTS ON TERRORISM OF IN-*
10 *FORMATION ON TERRORIST GROUPS THAT*
11 *SEEK WEAPONS OF MASS DESTRUCTION AND*
12 *GROUPS THAT HAVE BEEN DESIGNATED AS*
13 *FOREIGN TERRORIST ORGANIZATIONS.*

14 *(a) INCLUSION IN REPORTS.—Section 140 of*
15 *the Foreign Relations Authorization Act, Fis-*
16 *cal Years 1988 and 1989 (22 U.S.C. 2656f) is*
17 *amended—*

18 *(1) in subsection (a)(2)—*

19 *(A) by inserting “any terrorist*
20 *group known to have obtained or de-*
21 *veloped, or to have attempted to ob-*
22 *tain or develop, weapons of mass de-*
23 *struction,” after “during the pre-*
24 *ceding five years,”; and*

1 ***(B) by inserting “any group des-***
2 ***ignated by the Secretary as a foreign***
3 ***terrorist organization under section***
4 ***219 of the Immigration and Nation-***
5 ***ality Act (8 U.S.C. 1189),” after “Ex-***
6 ***port Administration Act of 1979,”;***

7 ***(2) in subsection (b)(1)(C)(iii), by***
8 ***striking “and” at the end;***

9 ***(3) in subsection (b)(1)(C)—***

10 ***(A) by redesignating clause (iv) as***
11 ***clause (v); and***

12 ***(B) by inserting after clause (iii)***
13 ***the following new clause:***

14 ***“(iv) providing weapons of***
15 ***mass destruction, or assistance in***
16 ***obtaining or developing such***
17 ***weapons, to terrorists or terrorist***
18 ***groups; and”;*** and

19 ***(4) in subsection (b)(3) (as redesign-***
20 ***ated by section 4002(b)(2)(B) of this***
21 ***Act)—***

22 ***(A) by redesignating subpara-***
23 ***graphs (C), (D), and (E) as (D), (E),***
24 ***and (F), respectively; and***

1 ***(B) by inserting after subpara-***
 2 ***graph (B) the following new subpara-***
 3 ***graph:***

4 ***“(C) efforts by those groups to ob-***
 5 ***tain or develop weapons of mass de-***
 6 ***struction;”.***

7 ***(b) EFFECTIVE DATE.—The amendments***
 8 ***made by subsection (a) shall apply beginning***
 9 ***with the first report under section 140 of the***
 10 ***Foreign Relations Authorization Act, Fiscal***
 11 ***Years 1988 and 1989 (22 U.S.C. 2656f), sub-***
 12 ***mitted more than one year after the date of the***
 13 ***enactment of this Act.***

14 ***Subtitle D—Afghanistan Freedom***
 15 ***Support Act Amendments of 2004***

16 ***SEC. 4061. SHORT TITLE.***

17 ***This subtitle may be cited as the “Afghani-***
 18 ***stan Freedom Support Act Amendments of***
 19 ***2004”.***

20 ***SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANI-***
 21 ***STAN.***

22 ***(a) FINDINGS.—Congress finds that—***

23 ***(1) the Final Report of the National***
 24 ***Commission on Terrorist Attacks Upon***
 25 ***the United States criticized the provision***

1 *of United States assistance to Afghanistan*
2 *for being too inflexible; and*

3 *(2) the Afghanistan Freedom Support*
4 *Act of 2002 (Public Law 107–327; 22 U.S.C.*
5 *7501 et seq.) contains provisions that pro-*
6 *vide for flexibility in the provision of as-*
7 *sistance for Afghanistan and are not sub-*
8 *ject to the requirements of typical foreign*
9 *assistance programs and provide for the*
10 *designation of a coordinator to oversee*
11 *United States assistance for Afghanistan.*

12 *(b) DESIGNATION OF COORDINATOR.—Section*
13 *104(a) of the Afghanistan Freedom Support*
14 *Act of 2002 (22 U.S.C. 7514(a)) is amended in*
15 *the matter preceding paragraph (1) by strik-*
16 *ing “is strongly urged to” and inserting*
17 *“shall”.*

18 *(c) OTHER MATTERS.—Section 104 of such*
19 *Act (22 U.S.C. 7514) is amended by adding at*
20 *the end the following:*

21 *“(c) PROGRAM PLAN.—The coordinator des-*
22 *ignated under subsection (a) shall annually*
23 *submit to the Committees on International Re-*
24 *lations and Appropriations of the House of*
25 *Representatives and the Committees on For-*

1 *eign Relations and Appropriations of the Sen-*
2 *ate the Administration's plan for assistance to*
3 *Afghanistan together with a description of*
4 *such assistance in prior years.*

5 “(d) *COORDINATION WITH INTERNATIONAL*
6 *COMMUNITY.—The coordinator designated*
7 *under subsection (a) shall work with the inter-*
8 *national community and the Government of*
9 *Afghanistan to ensure that assistance to Af-*
10 *ghanistan is implemented in a coherent, con-*
11 *sistent, and efficient manner to prevent dupli-*
12 *cation and waste. The coordinator designated*
13 *under subsection (a) shall work through the*
14 *Secretary of the Treasury and the United*
15 *States Executive Directors at the international*
16 *financial institutions in order to effectuate*
17 *these responsibilities within the international*
18 *financial institutions. The term ‘international*
19 *financial institution’ has the meaning given in*
20 *section 1701(c)(2) of the International Finan-*
21 *cial Institutions Act.”.*

22 *SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-*
23 *GHANISTAN FREEDOM SUPPORT ACT OF 2002.*

24 “(a) *ASSISTANCE TO PROMOTE ECONOMIC, PO-*
25 *LITICAL AND SOCIAL DEVELOPMENT.—*

1 **(1) DECLARATION OF POLICY.—Congress**
2 *reaffirms the authorities contained in*
3 *title I of the Afghanistan Freedom Sup-*
4 *port Act of 2002 (22 U.S.C. 7501 et seq.; re-*
5 *lating to economic and democratic devel-*
6 *opment assistance for Afghanistan).*

7 **(2) PROVISION OF ASSISTANCE.—Section**
8 *103(a) of such Act (22 U.S.C. 7513(a)) is*
9 *amended in the matter preceding para-*
10 *graph (1) by striking “section 512 of Pub-*
11 *lic Law 107–115 or any other similar” and*
12 *inserting “any other”.*

13 **(b) DECLARATIONS OF POLICY.—Congress**
14 *makes the following declarations:*

15 **(1) The United States reaffirms the**
16 *support that it and other countries ex-*
17 *pressed for the report entitled “Securing*
18 *Afghanistan’s Future” in their Berlin Dec-*
19 *laration of April 2004. The United States*
20 *should help enable the growth needed to*
21 *create an economically sustainable Af-*
22 *ghanistan capable of the poverty reduc-*
23 *tion and social development foreseen in*
24 *the report.*

1 ***(2) The United States supports the***
2 ***parliamentary elections to be held in Af-***
3 ***ghanistan by April 2005 and will help en-***
4 ***sure that such elections are not under-***
5 ***mined by warlords or narcotics traf-***
6 ***fickers.***

7 ***(3)(A) The United States continues to***
8 ***urge North Atlantic Treaty Organization***
9 ***members and other friendly countries to***
10 ***make much greater military contributions***
11 ***toward securing the peace in Afghani-***
12 ***stan.***

13 ***(B) The United States should continue***
14 ***to lead in the security domain by, among***
15 ***other things, providing logistical support***
16 ***to facilitate those contributions.***

17 ***(C) In coordination with the Govern-***
18 ***ment of Afghanistan, the United States***
19 ***should urge others, and act itself, to in-***
20 ***crease efforts to promote disarmament,***
21 ***demobilization, and reintegration efforts,***
22 ***to enhance counternarcotics activities, to***
23 ***expand deployments of Provincial Recon-***
24 ***struction Teams, and to increase training***

1 *of Afghanistan’s National Army and its*
2 *police and border security forces.*

3 *(c) LONG-TERM STRATEGY.—*

4 *(1) STRATEGY.—Title III of such Act (22*
5 *U.S.C. 7551 et seq.) is amended by adding*
6 *at the end the following:*

7 *“SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR*
8 *AFGHANISTAN.*

9 *“(a) STRATEGY.—*

10 *“(1) IN GENERAL.—Not later than 180*
11 *days after the date of the enactment of the*
12 *Afghanistan Freedom Support Act Amend-*
13 *ments of 2004, the President shall formu-*
14 *late and transmit to the Committee on*
15 *International Relations of the House of*
16 *Representatives and the Committee on*
17 *Foreign Relations of the Senate a 5-year*
18 *strategy for Afghanistan that includes*
19 *specific and measurable goals, time-*
20 *frames for accomplishing such goals, and*
21 *specific resource levels necessary for ac-*
22 *complishing such goals for addressing the*
23 *long-term development and security needs*
24 *of Afghanistan, including sectors such as*
25 *agriculture and irrigation, parliamentary*

1 *and democratic development, the judicial*
2 *system and rule of law, human rights,*
3 *education, health, telecommunications,*
4 *electricity, women's rights, counter-*
5 *narcotics, police, border security, anti-cor-*
6 *ruption, and other law-enforcement ac-*
7 *tivities.*

8 “(2) *ADDITIONAL REQUIREMENT.—The*
9 *strategy shall also delineate responsibil-*
10 *ities for achieving such goals and identify*
11 *and address possible external factors that*
12 *could significantly affect the achievement*
13 *of such goals.*

14 “(b) *IMPLEMENTATION.—Not later than 30*
15 *days after the date of the transmission of the*
16 *strategy required by subsection (a), the Sec-*
17 *retary of State, the Administrator of the*
18 *United States Agency for International Devel-*
19 *opment, and the Secretary of Defense shall*
20 *submit to the Committee on International Re-*
21 *lations of the House of Representatives and the*
22 *Committee on Foreign Relations of the Senate*
23 *a written 5-year action plan to implement the*
24 *strategy developed pursuant to subsection (a).*
25 *Such action plan shall include a description*

1 *and schedule of the program evaluations that*
2 *will monitor progress toward achieving the*
3 *goals described in subsection (a).*

4 “(c) *REVIEW.—The Secretary of State, the*
5 *Administrator of the United States Agency for*
6 *International Development, and the Secretary*
7 *of Defense shall carry out an annual review of*
8 *the strategy required by subsection (a) and the*
9 *action plan required by subsection (b).*

10 “(d) *MONITORING.—The report required by*
11 *section 206(c)(2) of this Act shall include—*

12 “(1) *a description of progress toward*
13 *implementation of both the strategy re-*
14 *quired by subsection (a) and the action*
15 *plan required by subsection (b); and*

16 “(2) *a description of any changes to*
17 *the strategy or action plan since the date*
18 *of the submission of the last report re-*
19 *quired by such section.”.*

20 (2) *CLERICAL AMENDMENT.—The table*
21 *of contents for such Act (22 U.S.C. 7501*
22 *note) is amended by adding after the item*
23 *relating to section 303 the following:*

“Sec. 304. Formulation of long-term strategy for Afghanistan.”.

1 *SEC. 4064. RULE OF LAW AND RELATED ISSUES.*

2 *Section 103(a)(5)(A) of the Afghanistan*
3 *Freedom Support Act of 2002 (22 U.S.C.*
4 *7513(a)(5)(A)) is amended—*

5 *(1) in clause (v), to read as follows:*

6 *“(v) support for the activities*
7 *of the Government of Afghanistan*
8 *to develop modern legal codes and*
9 *court rules, to provide for the cre-*
10 *ation of legal assistance pro-*
11 *grams, and other initiatives to*
12 *promote the rule of law in Afghan-*
13 *istan;”;*

14 *(2) in clause (xii), to read as follows:*

15 *“(xii) support for the effective*
16 *administration of justice at the*
17 *national, regional, and local lev-*
18 *els, including programs to im-*
19 *prove penal institutions and the*
20 *rehabilitation of prisoners, to es-*
21 *tablish a responsible and commu-*
22 *nity-based police force, and to re-*
23 *habilitate or construct court-*
24 *houses and detention facilities;”;*
25 *and*

1 **(3) in clause (xiii), by striking “and”**
2 **at the end;**

3 **(4) in clause (xiv), by striking the pe-**
4 **riod at the end and inserting “; and”; and**

5 **(5) by adding at the end the following:**

6 **“(xv) assistance for the protec-**
7 **tion of Afghanistan’s culture, his-**
8 **tory, and national identity, in-**
9 **cluding with the rehabilitation of**
10 **Afghanistan’s museums and sites**
11 **of cultural significance.”.**

12 **SEC. 4065. MONITORING OF ASSISTANCE.**

13 **Section 108 of the Afghanistan Freedom**
14 **Support Act of 2002 (22 U.S.C. 7518) is amend-**
15 **ed by adding at the end the following:**

16 **“(c) MONITORING OF ASSISTANCE FOR AF-**
17 **GHANISTAN.—**

18 **“(1) REPORT.—Not later than January**
19 **15, 2005, and every six months thereafter,**
20 **the Secretary of State, in consultation**
21 **with the Administrator for the United**
22 **States Agency for International Develop-**
23 **ment, shall submit to the Committee on**
24 **International Relations of the House of**
25 **Representatives and the Committee on**

1 *Foreign Relations of the Senate a report*
2 *on the obligations and expenditures of*
3 *United States assistance for Afghanistan*
4 *from all United States Government agen-*
5 *cies.*

6 “(2) *SUBMISSION OF INFORMATION FOR*
7 *REPORT.—The head of each United States*
8 *Government agency referred to in para-*
9 *graph (1) shall provide on a timely basis*
10 *to the Secretary of State such information*
11 *as the Secretary may reasonably require*
12 *to allow the Secretary to prepare and sub-*
13 *mit the report required by such para-*
14 *graph.”.*

15 *SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-*
16 *MAMENT OF PRIVATE MILITIAS AND TO SUP-*
17 *PORT EXPANSION OF INTERNATIONAL*
18 *PEACEKEEPING AND SECURITY OPERATIONS*
19 *IN AFGHANISTAN.*

20 *(a) DISARMAMENT OF PRIVATE MILITIAS.—*
21 *Section 103 of the Afghanistan Freedom Sup-*
22 *port Act of 2002 (22 U.S.C. 7513) is amended by*
23 *adding at the end the following:*

24 “(d) *UNITED STATES POLICY RELATING TO*
25 *DISARMAMENT OF PRIVATE MILITIAS.—*

1 “(1) *IN GENERAL.*—*It shall be the policy*
2 *of the United States to take immediate*
3 *steps to provide active support for the dis-*
4 *armament, demobilization, and reintegra-*
5 *tion of armed soldiers, particularly child*
6 *soldiers, in Afghanistan, in close con-*
7 *sultation with the President of Afghani-*
8 *stan.*”

9 “(2) *REPORT.*—*The report required by*
10 *section 206(c)(2) of this Act shall include*
11 *a description of the progress to implement*
12 *paragraph (1).”.*

13 **(b) *INTERNATIONAL PEACEKEEPING AND SE-***
14 ***CURITY OPERATIONS.***—*Section 103 of such Act*
15 ***(22 U.S.C. 7513(d)), as amended by subsection***
16 ***(a), is further amended by adding at the end***
17 ***the following:***

18 “(e) *UNITED STATES POLICY RELATING TO*
19 *INTERNATIONAL PEACEKEEPING AND SECURITY*
20 *OPERATIONS.*—*It shall be the policy of the*
21 *United States to make every effort to support*
22 *the expansion of international peacekeeping*
23 *and security operations in Afghanistan in*
24 *order to—*

1 “(1) *increase the area in which secu-*
 2 *rity is provided and undertake vital tasks*
 3 *related to promoting security, such as dis-*
 4 *arming warlords, militias, and*
 5 *irregulars, and disrupting opium produc-*
 6 *tion; and*

7 “(2) *safeguard highways in order to*
 8 *allow the free flow of commerce and to*
 9 *allow material assistance to the people of*
 10 *Afghanistan, and aid personnel in Af-*
 11 *ghanistan, to move more freely.”.*

12 *SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-*
 13 *KEEPING AND SECURITY OPERATIONS IN AF-*
 14 *GHANISTAN.*

15 *Section 206(d)(1) of the Afghanistan Free-*
 16 *dom Support Act of 2002 (22 U.S.C. 7536(d)(1))*
 17 *is amended to read as follows:*

18 “(1) *EFFORTS TO EXPAND INTER-*
 19 *NATIONAL PEACEKEEPING AND SECURITY OP-*
 20 *ERATIONS IN AFGHANISTAN.—*

21 “(A) *EFFORTS.—The President*
 22 *shall encourage, and, as authorized*
 23 *by law, enable other countries to ac-*
 24 *tively participate in expanded inter-*
 25 *national peacekeeping and security*

21 SEC. 4068. PROVISIONS RELATING TO counternarcotics EF-
22 FORTS IN AFGHANISTAN.

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1 (1) *by redesignating—*

2 (A) *title III as title IV; and*

3 (B) *sections 301 through 304 as*
4 *sections 401 through 404, respectively;*
5 *and*

6 (2) *by inserting after title II the fol-*
7 *lowing:*

8 ***“TITLE III—PROVISIONS RELAT-***
9 ***ING TO counternarcotics EF-***
10 ***FORTS IN AFGHANISTAN***

11 ***“SEC. 301. ASSISTANCE FOR counternarcotics EFFORTS.***

12 ***“In addition to programs established pur-***
13 ***suant to section 103(a)(3) of this Act or other***
14 ***similar programs, the President is authorized***
15 ***and encouraged to implement specific initia-***
16 ***tives to assist in the eradication of poppy cul-***
17 ***tivation and the disruption of heroin produc-***
18 ***tion in Afghanistan, such as—***

19 ***“(1) promoting alternatives to poppy***
20 ***cultivation, including the introduction of***
21 ***high value crops that are suitable for ex-***
22 ***port and the provision of appropriate***
23 ***technical assistance and credit mecha-***
24 ***nisms for farmers;***

1 “(2) *enhancing the ability of farmers*
2 *to bring legitimate agricultural goods to*
3 *market;*

4 “(3) *notwithstanding section 660 of*
5 *the Foreign Assistance Act of 1961 (22*
6 *U.S.C. 2420), assistance, including non-*
7 *lethal equipment, training (including*
8 *training in internationally recognized*
9 *standards of human rights, the rule of*
10 *law, anti-corruption, and the promotion*
11 *of civilian police roles that support de-*
12 *mocracy), and payments, during fiscal*
13 *years 2006 through 2008, for salaries for*
14 *special counternarcotics police and sup-*
15 *porting units;*

16 “(4) *training the Afghan National*
17 *Army in counternarcotics activities; and*

18 “(5) *creating special counternarcotics*
19 *courts, prosecutors, and places of incar-*
20 *ceration.”.*

21 **(b) CLERICAL AMENDMENTS.—***The table of*
22 *contents for such Act (22 U.S.C. 7501 note) is*
23 *amended—*

24 **(1) by redesignating—**

1 (A) *the item relating to title III as*
 2 *the item relating to title IV; and*

3 (B) *the items relating to sections*
 4 *301 through 304 as the items relating*
 5 *to sections 401 through 404; and*

6 (2) *by inserting after the items relat-*
 7 *ing to title II the following:*

***“TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS
 EFFORTS IN AFGHANISTAN***

“Sec. 301. Assistance for counternarcotics efforts.”.

8 ***SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-***
 9 ***STAN FREEDOM SUPPORT ACT OF 2002.***

10 (a) ***TECHNICAL AMENDMENT.—Section***
 11 ***103(a)(7)(A)(xii) of the Afghanistan Freedom***
 12 ***Support Act of 2002 (22 U.S.C.***
 13 ***7513(a)(7)(A)(xii)) is amended by striking “Na-***
 14 ***tional” and inserting “Afghan Independent”.***

15 (b) ***REPORTING REQUIREMENT.—Section***
 16 ***206(c)(2) of such Act (22 U.S.C. 7536(c)(2)) is***
 17 ***amended in the matter preceding subpara-***
 18 ***graph (A) by striking “2007” and inserting***
 19 ***“2012”.***

20 ***SEC. 4070. REPEAL.***

21 ***Section 620D of the Foreign Assistance Act***
 22 ***of 1961 (22 U.S.C. 2374; relating to prohibition***

1 *on assistance to Afghanistan) is hereby re-*
2 *pealed.*

3 ***Subtitle E—Provisions Relating to***
4 ***Saudi Arabia and Pakistan***

5 ***SEC. 4081. NEW UNITED STATES STRATEGY FOR RELATION-***
6 ***SHIP WITH SAUDI ARABIA.***

7 ***(a) SENSE OF CONGRESS.—It is the sense of***
8 ***Congress that the relationship between the***
9 ***United States and Saudi Arabia should in-***
10 ***clude a more robust dialogue between the peo-***
11 ***ple and Government of the United States and***
12 ***the people and Government of Saudi Arabia in***
13 ***order to provide for a reevaluation of, and im-***
14 ***provements to, the relationship by both sides.***

15 ***(b) REPORT.—***

16 ***(1) IN GENERAL.— Not later than one***
17 ***year after the date of the enactment of***
18 ***this Act, the President shall transmit to***
19 ***the Committee on International Relations***
20 ***of the House of Representatives and the***
21 ***Committee on Foreign Relations of the***
22 ***Senate a strategy for collaboration with***
23 ***the people and Government of Saudi Ara-***
24 ***bia on subjects of mutual interest and im-***
25 ***portance to the United States.***

1 **(2) CONTENTS.—***The strategy required*
2 *under paragraph (1) shall include the fol-*
3 *lowing provisions:*

4 **(A)** *A framework for security co-*
5 *operation in the fight against ter-*
6 *rorism, with special reference to com-*
7 *bating terrorist financing and an ex-*
8 *amination of the origins of modern*
9 *terrorism.*

10 **(B)** *A framework for political and*
11 *economic reform in Saudi Arabia and*
12 *throughout the Middle East.*

13 **(C)** *An examination of steps that*
14 *should be taken to reverse the trend*
15 *toward extremism in Saudi Arabia*
16 *and other Muslim countries and*
17 *throughout the Middle East.*

18 **(D)** *A framework for promoting*
19 *greater tolerance and respect for cul-*
20 *tural and religious diversity in Saudi*
21 *Arabia and throughout the Middle*
22 *East.*

1 **SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE**
2 **OF PAKISTAN.**

3 **(a) SENSE OF CONGRESS.—It is the sense of**
4 **Congress that the United States should, over a**
5 **long-term period, help to ensure a promising,**
6 **stable, and secure future for Pakistan, and**
7 **should in particular provide assistance to en-**
8 **courage and enable Pakistan—**

9 **(1) to continue and improve upon its**
10 **commitment to combating extremists;**

11 **(2) to seek to resolve any outstanding**
12 **difficulties with its neighbors and other**
13 **countries in its region;**

14 **(3) to continue to make efforts to fully**
15 **control its territory and borders;**

16 **(4) to progress towards becoming a**
17 **more effective and participatory democ-**
18 **racy;**

19 **(5) to participate more vigorously in**
20 **the global marketplace and to continue to**
21 **modernize its economy;**

22 **(6) to take all necessary steps to halt**
23 **the spread of weapons of mass destruc-**
24 **tion;**

25 **(7) to continue to reform its education**
26 **system; and**

1 (8) *to, in other ways, implement a gen-*
2 *eral strategy of moderation.*

3 (b) *STRATEGY.—Not later than 180 days*
4 *after the date of the enactment of this Act, the*
5 *President shall transmit to Congress a de-*
6 *tailed proposed strategy for the future, long-*
7 *term, engagement of the United States with*
8 *Pakistan.*

9 SEC. 4083. *EXTENSION OF PAKISTAN WAIVERS.*

10 *The Act entitled “An Act to authorize the*
11 *President to exercise waivers of foreign assist-*
12 *ance restrictions with respect to Pakistan*
13 *through September 30, 2003, and for other pur-*
14 *poses”, approved October 27, 2001 (Public Law*
15 *107–57; 115 Stat. 403), as amended by section*
16 *2213 of the Emergency Supplemental Appro-*
17 *priations Act for Defense and for the Recon-*
18 *struction of Iraq and Afghanistan, 2004 (Pub-*
19 *lic Law 108–106; 117 Stat. 1232), is further*
20 *amended—*

21 *(1) in section 1(b)—*

22 *(A) in the heading, by striking*
23 *“FISCAL YEAR 2004” and inserting*
24 *“FISCAL YEARS 2005 AND 2006”; and*

1 **(B) in paragraph (1), by striking**
 2 **“2004” and inserting “2005 or 2006”;**
 3 **(2) in section 3(2), by striking “and**
 4 **2004,” and inserting “2004, 2005, and**
 5 **2006”; and**
 6 **(3) in section 6, by striking “2004” and**
 7 **inserting “2006”.**

8 ***Subtitle F—Oversight Provisions***

9 **SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

10 **(a) AVAILABILITY OF TREATIES AND INTER-**
 11 **NATIONAL AGREEMENTS.—Section 112a of title 1,**
 12 **United States Code, is amended by adding at**
 13 **the end the following:**

14 **“(d) The Secretary of State shall cause to**
 15 **be published in slip form or otherwise made**
 16 **publicly available through the Internet**
 17 **website of the Department of State each treaty**
 18 **or international agreement proposed to be**
 19 **published in the compilation entitled ‘United**
 20 **States Treaties and Other International**
 21 **Agreements’ not later than 180 days after the**
 22 **date on which the treaty or agreement enters**
 23 **into force.”.**

24 **(b) TRANSMISSION TO CONGRESS.—Section**
 25 **112b(a) of title 1, United States Code (com-**

1 *monly referred to as the “Case-Zablocki Act”),*
2 *is amended—*

3 *(1) in the first sentence, by striking*
4 *“has entered into force” and inserting*
5 *“has been signed or entered into force”;*
6 *and*

7 *(2) in the second sentence, by striking*
8 *“Committee on Foreign Affairs” and in-*
9 *serting “Committee on International Rela-*
10 *tions”.*

11 *(c) REPORT.—Section 112b of title 1, United*
12 *States Code, is amended—*

13 *(1) by redesignating subsections (d)*
14 *and (e) as subsections (e) and (f), respec-*
15 *tively; and*

16 *(2) by inserting after subsection (c)*
17 *the following:*

18 *“(d)(1) The Secretary of State shall submit*
19 *to Congress on an annual basis a report that*
20 *contains an index of all international agree-*
21 *ments (including oral agreements), listed by*
22 *country, date, title, and summary of each such*
23 *agreement (including a description of the du-*
24 *ration of activities under the agreement and*
25 *the agreement itself), that the United States—*

1 “(A) *has signed, proclaimed, or with*
2 *reference to which any other final for-*
3 *mality has been executed, or that has been*
4 *extended or otherwise modified, during*
5 *the preceding calendar year; and*

6 “(B) *has not been published, or is not*
7 *proposed to be published, in the compila-*
8 *tion entitled ‘United States Treaties and*
9 *Other International Agreements’.*

10 “(2) *The report described in paragraph (1)*
11 *may be submitted in classified form.”.*

12 (d) *DETERMINATION OF INTERNATIONAL*
13 *AGREEMENT.—Subsection (e) of section 112b of*
14 *title 1, United States Code, (as redesignated)*
15 *is amended—*

16 (1) *by striking “(e) The Secretary of*
17 *State” and inserting “(e)(1) Subject to*
18 *paragraph (2), the Secretary of State”;*
19 *and*

20 (2) *by adding at the end the following:*

21 “(2)(A) *An arrangement shall constitute*
22 *an international agreement within the mean-*
23 *ing of this section (other than subsection (c) of*
24 *this section) irrespective of the duration of ac-*

1 *tivities under the arrangement or the arrange-*
 2 *ment itself.*

3 *“(B) Arrangements that constitute an*
 4 *international agreement within the meaning*
 5 *of this section (other than subsection (c) of this*
 6 *section) include, but are not limited to, the fol-*
 7 *lowing:*

8 *“(i) A bilateral or multilateral*
 9 *counterterrorism agreement.*

10 *“(ii) A bilateral agreement with a*
 11 *country that is subject to a determination*
 12 *under section 6(j)(1)(A) of the Export Ad-*
 13 *ministration Act of 1979 (50 U.S.C. App.*
 14 *2405(j)(1)(A)), section 620A(a) of the For-*
 15 *oreign Assistance Act of 1961 (22 U.S.C.*
 16 *2371(a)), or section 40(d) of the Arms Ex-*
 17 *port Control Act (22 U.S.C. 2780(d)).”.*

18 *(e) ENFORCEMENT OF REQUIREMENTS.—Sec-*
 19 *tion 139(b) of the Foreign Relations Authoriza-*
 20 *tion Act, Fiscal Years 1988 and 1989 is amend-*
 21 *ed to read as follows:*

22 *“(b) EFFECTIVE DATE.—Subsection (a) shall*
 23 *take effect 60 days after the date of the enact-*
 24 *ment of the 9/11 Recommendations Implemen-*

1 *tation Act and shall apply during fiscal years*
 2 *2005, 2006, and 2007.”.*

3 ***Subtitle G—Additional Protections***
 4 ***of United States Aviation System***
 5 ***from Terrorist Attacks***

6 ***SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-***
 7 ***IMUM DEPLOYMENT OF FEDERAL FLIGHT***
 8 ***DECK OFFICERS.***

9 ***The President is encouraged to pursue ag-***
 10 ***gressively international agreements with for-***
 11 ***eign governments to allow the maximum de-***
 12 ***ployment of Federal air marshals and Federal***
 13 ***flight deck officers on international flights.***

14 ***SEC. 4102. FEDERAL AIR MARSHAL TRAINING.***

15 ***Section 44917 of title 49, United States***
 16 ***Code, is amended by adding at the end the fol-***
 17 ***lowing:***

18 ***“(d) TRAINING FOR FOREIGN LAW ENFORCE-***
 19 ***MENT PERSONNEL.—***

20 ***“(1) IN GENERAL.—The Assistant Sec-***
 21 ***retary for Immigration and Customs En-***
 22 ***forcement of the Department of Homeland***
 23 ***Security, after consultation with the Sec-***
 24 ***retary of State, may direct the Federal Air***
 25 ***Marshal Service to provide appropriate***

1 *air marshal training to law enforcement*
2 *personnel of foreign countries.*

3 “(2) *WATCHLIST SCREENING.—The Fed-*
4 *eral Air Marshal Service may only provide*
5 *appropriate air marshal training to law*
6 *enforcement personnel of foreign coun-*
7 *tries after comparing the identifying in-*
8 *formation and records of law enforcement*
9 *personnel of foreign countries against ap-*
10 *propriate records in the consolidated and*
11 *integrated terrorist watchlists of the Fed-*
12 *eral Government.*

13 “(3) *FEES.—The Assistant Secretary*
14 *shall establish reasonable fees and*
15 *charges to pay expenses incurred in car-*
16 *rying out this subsection. Funds collected*
17 *under this subsection shall be credited to*
18 *the account in the Treasury from which*
19 *the expenses were incurred and shall be*
20 *available to the Assistant Secretary for*
21 *purposes for which amounts in such ac-*
22 *count are available.”.*

1 SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS
2 (MANPADS).

3 (a) UNITED STATES POLICY ON NON-
4 PROLIFERATION AND EXPORT CONTROL.—

5 (1) TO LIMIT AVAILABILITY AND TRANS-
6 FER OF MANPADS.—*The President shall*
7 *pursue, on an urgent basis, further strong*
8 *international diplomatic and cooperative*
9 *efforts, including bilateral and multilat-*
10 *eral treaties, in the appropriate forum to*
11 *limit the availability, transfer, and pro-*
12 *liferation of MANPADSs worldwide.*

13 (2) TO LIMIT THE PROLIFERATION OF
14 MANPADS.—*The President is encouraged to*
15 *seek to enter into agreements with the*
16 *governments of foreign countries that, at*
17 *a minimum, would—*

18 (A) *prohibit the entry into force of*
19 *a MANPADS manufacturing license*
20 *agreement and MANPADS co-produc-*
21 *tion agreement, other than the entry*
22 *into force of a manufacturing license*
23 *or co-production agreement with a*
24 *country that is party to such an agree-*
25 *ment;*

1 ***(B) prohibit, except pursuant to***
2 ***transfers between governments, the ex-***
3 ***port of a MANPADS, including any***
4 ***component, part, accessory, or attach-***
5 ***ment thereof, without an individual***
6 ***validated license; and***

7 ***(C) prohibit the reexport or re-***
8 ***transfer of a MANPADS, including***
9 ***any component, part, accessory, or at-***
10 ***tachment thereof, to a third person,***
11 ***organization, or government unless***
12 ***the written consent of the government***
13 ***that approved the original export or***
14 ***transfer is first obtained.***

15 ***(3) TO ACHIEVE DESTRUCTION OF***
16 ***MANPADS.—The President should continue***
17 ***to pursue further strong international***
18 ***diplomatic and cooperative efforts, in-***
19 ***cluding bilateral and multilateral trea-***
20 ***ties, in the appropriate forum to assure***
21 ***the destruction of excess, obsolete, and il-***
22 ***licit stocks of MANPADSs worldwide.***

23 ***(4) REPORTING AND BRIEFING REQUIRE-***
24 ***MENT.—***

1 **(A) PRESIDENT’S REPORT.—***Not*
2 *later than 180 days after the date of*
3 *enactment of this Act, the President*
4 *shall transmit to the appropriate con-*
5 *gressional committees a report that*
6 *contains a detailed description of the*
7 *status of diplomatic efforts under*
8 *paragraphs (1), (2), and (3) and of ef-*
9 *forts by the appropriate United States*
10 *agencies to comply with the rec-*
11 *ommendations of the General Ac-*
12 *counting Office set forth in its report*
13 *GAO–04–519, entitled “Nonprolifera-*
14 *tion: Further Improvements Needed in*
15 *U.S. Efforts to Counter Threats from*
16 *Man-Portable Air Defense Systems”.*

17 **(B) ANNUAL BRIEFINGS.—***Annually*
18 *after the date of submission of the re-*
19 *port under subparagraph (A) and*
20 *until completion of the diplomatic*
21 *and compliance efforts referred to in*
22 *subparagraph (A), the Secretary of*
23 *State shall brief the appropriate con-*
24 *gressional committees on the status of*
25 *such efforts.*

1 **(b) FAA AIRWORTHINESS CERTIFICATION OF**
2 **MISSILE DEFENSE SYSTEMS FOR COMMERCIAL**
3 **AIRCRAFT.—**

4 **(1) IN GENERAL.—As soon as prac-**
5 **ticable, but not later than the date of com-**
6 **pletion of Phase II of the Department of**
7 **Homeland Security’s counter-man-port-**
8 **able air defense system (MANPADS) devel-**
9 **opment and demonstration program, the**
10 **Administrator of the Federal Aviation Ad-**
11 **ministration shall establish a process for**
12 **conducting airworthiness and safety cer-**
13 **tification of missile defense systems for**
14 **commercial aircraft certified as effective**
15 **and functional by the Department of**
16 **Homeland Security. The process shall re-**
17 **quire a certification by the Administrator**
18 **that such systems can be safely integrated**
19 **into aircraft systems and ensure air-**
20 **worthiness and aircraft system integrity.**

21 **(2) CERTIFICATION ACCEPTANCE.—Under**
22 **the process, the Administrator shall ac-**
23 **cept the certification of the Department of**
24 **Homeland Security that a missile defense**
25 **system is effective and functional to de-**

1 *fend commercial aircraft against*
2 *MANPADSs.*

3 (3) ***EXPEDITIOUS CERTIFICATION.—***
4 *Under the process, the Administrator*
5 *shall expedite the airworthiness and safe-*
6 *ty certification of missile defense systems*
7 *for commercial aircraft certified by the*
8 *Department of Homeland Security.*

9 (4) ***REPORTS.—****Not later than 90 days*
10 *after the first airworthiness and safety*
11 *certification for a missile defense system*
12 *for commercial aircraft is issued by the*
13 *Administrator, and annually thereafter*
14 *until December 31, 2008, the Federal Avia-*
15 *tion Administration shall transmit to the*
16 *Committee on Transportation and Infra-*
17 *structure of the House of Representatives*
18 *and the Committee on Commerce, Science,*
19 *and Transportation of the Senate a report*
20 *that contains a detailed description of*
21 *each airworthiness and safety certifi-*
22 *cation issued for a missile defense system*
23 *for commercial aircraft.*

24 (c) ***PROGRAMS TO REDUCE MANPADS.—***

1 **(1) IN GENERAL.—***The President is en-*
2 *couraged to pursue strong programs to re-*
3 *duce the number of MANPADSs worldwide*
4 *so that fewer MANPADSs will be available*
5 *for trade, proliferation, and sale.*

6 **(2) REPORTING AND BRIEFING REQUIRE-**
7 **MENTS.—***Not later than 180 days after the*
8 *date of enactment of this Act, the Presi-*
9 *dent shall transmit to the appropriate*
10 *congressional committees a report that*
11 *contains a detailed description of the sta-*
12 *tus of the programs being pursued under*
13 *subsection (a). Annually thereafter until*
14 *the programs are no longer needed, the*
15 *Secretary of State shall brief the appro-*
16 *priate congressional committees on the*
17 *status of programs.*

18 **(3) FUNDING.—***There are authorized to*
19 *be appropriated such sums as may be nec-*
20 *essary to carry out this section.*

21 **(d) MANPADS VULNERABILITY ASSESS-**
22 **MENTS REPORT.—**

23 **(1) IN GENERAL.—***Not later than one*
24 *year after the date of enactment of this*
25 *Act, the Secretary of Homeland Security*

1 *shall transmit to the Committee on Trans-*
2 *portation and Infrastructure of the House*
3 *of Representatives and the Committee on*
4 *Commerce, Science, and Transportation*
5 *of the Senate a report describing the De-*
6 *partment of Homeland Security's plans to*
7 *secure airports and the aircraft arriving*
8 *and departing from airports against*
9 *MANPADSs attacks.*

10 (2) *MATTERS TO BE ADDRESSED.—The*
11 *Secretary's report shall address, at a min-*
12 *imum, the following:*

13 (A) *The status of the Department's*
14 *efforts to conduct MANPADSs vulner-*
15 *ability assessments at United States*
16 *airports at which the Department is*
17 *conducting assessments.*

18 (B) *How intelligence is shared be-*
19 *tween the United States intelligence*
20 *agencies and Federal, State, and local*
21 *law enforcement to address the*
22 *MANPADS threat and potential ways*
23 *to improve such intelligence sharing.*

24 (C) *Contingency plans that the De-*
25 *partment has developed in the event*

1 *that it receives intelligence indicating*
2 *a high threat of a MANPADS attack*
3 *on aircraft at or near United States*
4 *airports.*

5 *(D) The feasibility and effective-*
6 *ness of implementing public education*
7 *and neighborhood watch programs in*
8 *areas surrounding United States air-*
9 *ports in cases in which intelligence re-*
10 *ports indicate there is a high risk of*
11 *MANPADS attacks on aircraft.*

12 *(E) Any other issues that the Sec-*
13 *retary deems relevant.*

14 *(3) FORMAT.—The report required by*
15 *this subsection may be submitted in a*
16 *classified format.*

17 *(e) DEFINITIONS.—In this section, the fol-*
18 *lowing definitions apply:*

19 *(1) APPROPRIATE CONGRESSIONAL COM-*
20 *MITTEES.—The term “appropriate congres-*
21 *sional committees” means—*

22 *(A) the Committee on Armed Serv-*
23 *ices, the Committee on International*
24 *Relations, and the Committee on*

1 *Transportation and Infrastructure of*
2 *the House of Representatives; and*

3 *(B) the Committee on Armed Serv-*
4 *ices, the Committee on Foreign Rela-*
5 *tions, and the Committee on Com-*
6 *merce, Science, and Transportation of*
7 *the Senate.*

8 (2) *MANPADS.—The term*
9 *“MANPADS” means—*

10 *(A) a surface-to-air missile system*
11 *designed to be man-portable and car-*
12 *ried and fired by a single individual;*
13 *and*

14 *(B) any other surface-to-air mis-*
15 *sile system designed to be operated*
16 *and fired by more than one individual*
17 *acting as a crew and portable by sev-*
18 *eral individuals.*

1 ***Subtitle H—Improving Inter-***
2 ***national Standards and Co-***
3 ***operation to Fight Terrorist Fi-***
4 ***nancing***

5 ***SEC. 4111. SENSE OF THE CONGRESS REGARDING SUCCESS***
6 ***IN MULTILATERAL ORGANIZATIONS.***

7 ***(a) FINDINGS.—The Congress finds as fol-***
8 ***lows:***

9 ***(1) The global war on terrorism and***
10 ***cutting off terrorist financing is a policy***
11 ***priority for the United States and its part-***
12 ***ners, working bilaterally and multilater-***
13 ***ally through the United Nations (UN), the***
14 ***UN Security Council and its Committees,***
15 ***such as the 1267 and 1373 Committees, the***
16 ***Financial Action Task Force (FATF) and***
17 ***various international financial institu-***
18 ***tions, such as the International Monetary***
19 ***Fund (IMF), the International Bank for***
20 ***Reconstruction and Development (IBRD),***
21 ***and the regional multilateral develop-***
22 ***ment banks, and other multilateral fora.***

23 ***(2) The Secretary of the Treasury has***
24 ***engaged the international financial com-***
25 ***munity in the global fight against ter-***

1 *rorist financing. Specifically, the Depart-*
2 *ment of the Treasury helped redirect the*
3 *focus of the Financial Action Task Force*
4 *on the new threat posed by terrorist fi-*
5 *nancing to the international financial*
6 *system, resulting in the establishment of*
7 *the FATF's Eight Special Recommenda-*
8 *tions on Terrorist Financing as the inter-*
9 *national standard on combating terrorist*
10 *financing. The Secretary of the Treasury*
11 *has engaged the Group of Seven and the*
12 *Group of Twenty Finance Ministers to de-*
13 *velop action plans to curb the financing*
14 *of terror. In addition, other economic and*
15 *regional fora, such as the Asia-Pacific*
16 *Economic Cooperation (APEC) Forum, the*
17 *Western Hemisphere Financial Ministers,*
18 *have been used to marshal political will*
19 *and actions in support of countering the*
20 *financing of terrorism (CFT) standards.*

21 *(3) FATF's Forty Recommendations on*
22 *Money Laundering and the Eight Special*
23 *Recommendations on Terrorist Financing*
24 *are the recognized global standards for*
25 *fighting money laundering and terrorist*

1 *financing. The FATF has engaged in an*
2 *assessment process for jurisdictions based*
3 *on their compliance with these standards.*

4 *(4) In March 2004, the IMF and IBRD*
5 *Boards agreed to make permanent a pilot*
6 *program of collaboration with the FATF*
7 *to assess global compliance with the FATF*
8 *Forty Recommendations on Money Laun-*
9 *dering and the Eight Special Rec-*
10 *ommendations on Terrorist Financing. As*
11 *a result, anti-money laundering (AML)*
12 *and combating the financing of terrorism*
13 *(CFT) assessments are now a regular part*
14 *of their Financial Sector Assessment*
15 *Progam (FSAP) and Offshore Financial*
16 *Center assessments, which provide for a*
17 *comprehensive analysis of the strength of*
18 *a jurisdiction's financial system. These re-*
19 *views assess potential systemic*
20 *vulnerabilities, consider sectoral develop-*
21 *ment needs and priorities, and review the*
22 *state of implementation of and compli-*
23 *ance with key financial codes and regu-*
24 *latory standards, among them the AML*
25 *and CFT standards.*

1 ***(5) To date, 70 FSAPs have been con-***
2 ***ducted, with over 24 of those incor-***
3 ***porating AML and CFT assessments. The***
4 ***international financial institutions (IFIs),***
5 ***the FATF, and the FATF-style regional***
6 ***bodies together are expected to assess***
7 ***AML and CFT regimes in up to 40 coun-***
8 ***tries or jurisdictions per year. This will***
9 ***help countries and jurisdictions identify***
10 ***deficiencies in their AML and CFT re-***
11 ***gimes and help focus technical assistance***
12 ***(TA) efforts.***

13 ***(6) TA programs from the United***
14 ***States and other nations, coordinated***
15 ***with the Department of State and other***
16 ***departments and agencies, are playing an***
17 ***important role in helping countries and***
18 ***jurisdictions address shortcomings in***
19 ***their AML and CFT regimes and bringing***
20 ***their regimes into conformity with inter-***
21 ***national standards. Training is coordi-***
22 ***nated within the United States Govern-***
23 ***ment, which leverages multilateral orga-***
24 ***nizations and bodies and international fi-***

1 *nancial institutions to internationalize*
2 *the conveyance of technical assistance.*

3 *(7) In fulfilling its duties in advanc-*
4 *ing incorporation of AML and CFT stand-*
5 *ards into the IFIs as part of the IFIs' work*
6 *on protecting the integrity of the inter-*
7 *national monetary system, the Depart-*
8 *ment of the Treasury, under the guidance*
9 *of the Secretary of the Treasury, has effec-*
10 *tively brought together all of the key*
11 *United States Government agencies. In*
12 *particular, United States Government*
13 *agencies continue to work together to fos-*
14 *ter broad support for this important un-*
15 *dertaking in various multilateral fora,*
16 *and United States Government agencies*
17 *recognize the need for close coordination*
18 *and communication within our own gov-*
19 *ernment.*

20 *(b) SENSE OF THE CONGRESS.—It is the sense*
21 *of the Congress that the Secretary of the Treas-*
22 *ury should continue to promote the dissemina-*
23 *tion of international AML and CFT standards,*
24 *and to press for full implementation of the*
25 *FATF 40 + 8 Recommendations by all countries*

1 *in order to curb financial risks and hinder ter-*
2 *rorist financing around the globe.*

3 *SEC. 4112. EXPANDED REPORTING AND TESTIMONY RE-*
4 *QUIREMENTS FOR THE SECRETARY OF THE*
5 *TREASURY.*

6 *(a) REPORTING REQUIREMENTS.—Section*
7 *1503(a) of the International Financial Institu-*
8 *tions Act (22 U.S.C. 262o–2(a)) is amended by*
9 *adding at the end the following new para-*
10 *graph:*

11 *“(15) Work with the International*
12 *Monetary Fund to—*

13 *“(A) foster strong global anti-*
14 *money laundering (AML) and combat*
15 *the financing of terrorism (CFT) re-*
16 *gimes;*

17 *“(B) ensure that country perform-*
18 *ance under the Financial Action Task*
19 *Force anti-money laundering and*
20 *counter-terrorist financing standards*
21 *is effectively and comprehensively*
22 *monitored;*

23 *“(C) ensure note is taken of AML*
24 *and CFT issues in Article IV reports,*
25 *International Monetary Fund pro-*

1 *grams, and other regular reviews of*
2 *country progress;*

3 *“(D) ensure that effective AML*
4 *and CFT regimes are considered to be*
5 *indispensable elements of sound fi-*
6 *nancial systems; and*

7 *“(E) emphasize the importance of*
8 *sound AML and CFT regimes to global*
9 *growth and development.”.*

10 ***(b) TESTIMONY.—Section 1705(b) of such***
11 ***Act (22 U.S.C. 262r–4(b)) is amended—***

12 ***(1) by striking “and” at the end of***
13 ***paragraph (2);***

14 ***(2) by striking the period at the end of***
15 ***paragraph (3) and inserting “; and” and***

16 ***(3) by adding at the end the following:***

17 ***“(4) the status of implementation of***
18 ***international anti-money laundering and***
19 ***counter-terrorist financing standards by***
20 ***the International Monetary Fund, the***
21 ***multilateral development banks, and***
22 ***other multilateral financial policymaking***
23 ***bodies.”.***

1 SEC. 4113. COORDINATION OF UNITED STATES GOVERN-
2 MENT EFFORTS.

3 *The Secretary of the Treasury, or the des-*
4 *ignee of the Secretary as the lead United*
5 *States Government official to the Financial*
6 *Action Task Force (FATF), shall continue to*
7 *convene the interagency United States Govern-*
8 *ment FATF working group. This group, which*
9 *includes representatives from all relevant fed-*
10 *eral agencies, shall meet at least once a year*
11 *to advise the Secretary on policies to be pur-*
12 *sued by the United States regarding the devel-*
13 *opment of common international AML and*
14 *CFT standards, to assess the adequacy and im-*
15 *plementation of such standards, and to rec-*
16 *ommend to the Secretary improved or new*
17 *standards as necessary.*

18 SEC. 4114. DEFINITIONS.

19 *In this subtitle:*

20 (1) INTERNATIONAL FINANCIAL INSTITU-
21 TIONS.—*The term “international financial*
22 *institutions” has the meaning given in*
23 *section 1701(c)(2) of the International Fi-*
24 *ancial Institutions Act.*

25 (2) FINANCIAL ACTION TASK FORCE.—
26 *The term “Financial Action Task Force”*

1 *means the international policy-making*
2 *and standard-setting body dedicated to*
3 *combating money laundering and ter-*
4 *rorist financing that was created by the*
5 *Group of Seven in 1989.*

6 ***TITLE V—GOVERNMENT***
7 ***RESTRUCTURING***
8 ***Subtitle A—Faster and Smarter***
9 ***Funding for First Responders***

10 *SEC. 5001. SHORT TITLE.*

11 *This subtitle may be cited as the “Faster*
12 *and Smarter Funding for First Responders Act*
13 *of 2004”.*

14 *SEC. 5002. FINDINGS.*

15 *The Congress finds the following:*

16 *(1) In order to achieve its objective of*
17 *minimizing the damage, and assisting in*
18 *the recovery, from terrorist attacks, the*
19 *Department of Homeland Security must*
20 *play a leading role in assisting commu-*
21 *nities to reach the level of preparedness*
22 *they need to respond to a terrorist attack.*

23 *(2) First responder funding is not*
24 *reaching the men and women of our Na-*

1 *tion's first response teams quickly enough,*
2 *and sometimes not at all.*

3 (3) *To reform the current bureau-*
4 *cratic process so that homeland security*
5 *dollars reach the first responders who*
6 *need it most, it is necessary to clarify and*
7 *consolidate the authority and procedures*
8 *of the Department of Homeland Security*
9 *that support first responders.*

10 (4) *Ensuring adequate resources for*
11 *the new national mission of homeland se-*
12 *curity, without degrading the ability to*
13 *address effectively other types of major*
14 *disasters and emergencies, requires a dis-*
15 *crete and separate grant making process*
16 *for homeland security funds for first re-*
17 *sponse to terrorist acts, on the one hand,*
18 *and for first responder programs designed*
19 *to meet pre-September 11 priorities, on the*
20 *other.*

21 (5) *While a discrete homeland security*
22 *grant making process is necessary to en-*
23 *sure proper focus on the unique aspects of*
24 *terrorism prevention, preparedness, and*
25 *response, it is essential that State and*

1 *local strategies for utilizing such grants*
2 *be integrated, to the greatest extent prac-*
3 *ticable, with existing State and local*
4 *emergency management plans.*

5 *(6) Homeland security grants to first*
6 *responders must be based on the best in-*
7 *telligence concerning the capabilities and*
8 *intentions of our terrorist enemies, and*
9 *that intelligence must be used to target re-*
10 *sources to the Nation's greatest threats,*
11 *vulnerabilities, and consequences.*

12 *(7) The Nation's first response capa-*
13 *bilities will be improved by sharing re-*
14 *sources, training, planning, personnel,*
15 *and equipment among neighboring juris-*
16 *dictions through mutual aid agreements*
17 *and regional cooperation. Such regional*
18 *cooperation should be supported, where*
19 *appropriate, through direct grants from*
20 *the Department of Homeland Security.*

21 *(8) An essential prerequisite to achiev-*
22 *ing the Nation's homeland security objec-*
23 *tives for first responders is the establish-*
24 *ment of well-defined national goals for*
25 *terrorism preparedness. These goals*

1 *should delineate the essential capabilities*
2 *that every jurisdiction in the United*
3 *States should possess or to which it*
4 *should have access.*

5 (9) *A national determination of essen-*
6 *tial capabilities is needed to identify lev-*
7 *els of State and local government ter-*
8 *rorism preparedness, to determine the na-*
9 *ture and extent of State and local first re-*
10 *sponder needs, to identify the human and*
11 *financial resources required to fulfill*
12 *them, and to direct funding to meet those*
13 *needs and to measure preparedness levels*
14 *on a national scale.*

15 (10) *To facilitate progress in achiev-*
16 *ing, maintaining, and enhancing essen-*
17 *tial capabilities for State and local first*
18 *responders, the Department of Homeland*
19 *Security should seek to allocate homeland*
20 *security funding for first responders to*
21 *meet nationwide needs.*

22 (11) *Private sector resources and cit-*
23 *izen volunteers can perform critical func-*
24 *tions in assisting in preventing and re-*
25 *sponding to terrorist attacks, and should*

1 *be integrated into State and local plan-*
2 *ning efforts to ensure that their capabili-*
3 *ties and roles are understood, so as to pro-*
4 *vide enhanced State and local oper-*
5 *ational capability and surge capacity.*

6 *(12) Public-private partnerships, such*
7 *as the partnerships between the Business*
8 *Executives for National Security and the*
9 *States of New Jersey and Georgia, can be*
10 *useful to identify and coordinate private*
11 *sector support for State and local first re-*
12 *sponders. Such models should be ex-*
13 *panded to cover all States and territories.*

14 *(13) An important aspect of essential*
15 *capabilities is measurability, so that it is*
16 *possible to determine how prepared a*
17 *State or local government is now, and*
18 *what additional steps it needs to take, in*
19 *order to respond to acts of terrorism.*

20 *(14) The Department of Homeland Se-*
21 *curity should establish, publish, and regu-*
22 *larly update national voluntary consensus*
23 *standards for both equipment and train-*
24 *ing, in cooperation with both public and*
25 *private sector standard setting organiza-*

9 ***(a) IN GENERAL.—The Homeland Security***
10 ***Act of 2002 (Public Law 107–296; 6 U.S.C. 361***
11 ***et seq.) is amended—***

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

“Sec. 1807. National standards for first responder equipment and training.”;

15 (2) *by adding at the end the following:*

19 ***“In this title:***

1 “(1) **BOARD.**—*The term ‘Board’ means*
2 *the First Responder Grants Board estab-*
3 *lished under section 1805(f).*

4 “(2) **COVERED GRANT.**—*The term ‘cov-*
5 *ered grant’ means any grant to which this*
6 *title applies under section 1802.*

7 “(3) **DIRECTLY ELIGIBLE TRIBE.**—*The*
8 *term ‘directly eligible tribe’ means any In-*
9 *dian tribe or consortium of Indian tribes*
10 *that—*

11 “(A) *meets the criteria for inclu-*
12 *sion in the qualified applicant pool*
13 *for Self-Governance that are set forth*
14 *in section 402(c) of the Indian Self-De-*
15 *termination and Education Assistance*
16 *Act (25 U.S.C. 458bb(c));*

17 “(B) *employs at least 10 full-time*
18 *personnel in a law enforcement or*
19 *emergency response agency with the*
20 *capacity to respond to calls for law*
21 *enforcement or emergency services;*
22 *and*

23 “(C)(i) *is located on, or within 5*
24 *miles of, an international border or*
25 *waterway;*

1 “(ii) *is located within 5 miles of a*
2 *facility within a critical infrastruc-*
3 *ture sector identified in section*
4 *1803(c)(2);*

5 “(iii) *is located within or contig-*
6 *uous to one of the 50 largest metro-*
7 *politan statistical areas in the United*
8 *States; or*

9 “(iv) *has more than 1,000 square*
10 *miles of Indian country, as that term*
11 *is defined in section 1151 of title 18,*
12 *United States Code.*

13 “(4) *ELEVATIONS IN THE THREAT ALERT*
14 *LEVEL.—The term ‘elevations in the threat*
15 *alert level’ means any designation (in-*
16 *cluding those that are less than national*
17 *in scope) that raises the homeland secu-*
18 *rity threat level to either the highest or*
19 *second highest threat level under the*
20 *Homeland Security Advisory System re-*
21 *ferred to in section 201(d)(7).*

22 “(5) *EMERGENCY PREPAREDNESS.—The*
23 *term ‘emergency preparedness’ shall have*
24 *the same meaning that term has under*
25 *section 602 of the Robert T. Stafford Dis-*

1 ***aster Relief and Emergency Assistance Act***
2 ***(42 U.S.C. 5195a).***

3 ***“(6) ESSENTIAL CAPABILITIES.—The***
4 ***term ‘essential capabilities’ means the lev-***
5 ***els, availability, and competence of emer-***
6 ***gency personnel, planning, training, and***
7 ***equipment across a variety of disciplines***
8 ***needed to effectively and efficiently pre-***
9 ***vent, prepare for, and respond to acts of***
10 ***terrorism consistent with established***
11 ***practices.***

12 ***“(7) FIRST RESPONDER.—The term ‘first***
13 ***responder’ shall have the same meaning***
14 ***as the term ‘emergency response provider’.***

15 ***“(8) INDIAN TRIBE.—The term ‘Indian***
16 ***tribe’ means any Indian tribe, band, na-***
17 ***tion, or other organized group or commu-***
18 ***nity, including any Alaskan Native vil-***
19 ***lage or regional or village corporation as***
20 ***defined in or established pursuant to the***
21 ***Alaskan Native Claims Settlement Act (43***
22 ***U.S.C. 1601 et seq.), which is recognized as***
23 ***eligible for the special programs and serv-***
24 ***ices provided by the United States to Indi-***
25 ***ans because of their status as Indians.***

1 “(9) *REGION.*—*The term ‘region’*
2 *means—*

3 “(A) *any geographic area con-*
4 *sisting of all or parts of 2 or more con-*
5 *tiguous States, counties, municipali-*
6 *ties, or other local governments that*
7 *have a combined population of at*
8 *least 1,650,000 or have an area of not*
9 *less than 20,000 square miles, and*
10 *that, for purposes of an application*
11 *for a covered grant, is represented by*
12 *1 or more governments or govern-*
13 *mental agencies within such geo-*
14 *graphic area, and that is established*
15 *by law or by agreement of 2 or more*
16 *such governments or governmental*
17 *agencies in a mutual aid agreement;*
18 *or*

19 “(B) *any other combination of con-*
20 *tiguous local government units (in-*
21 *cluding such a combination estab-*
22 *lished by law or agreement of two or*
23 *more governments or governmental*
24 *agencies in a mutual aid agreement)*
25 *that is formally certified by the Sec-*

1 *retary as a region for purposes of this*
2 *Act with the consent of—*

3 “(i) *the State or States in*
4 *which they are located, including*
5 *a multi-State entity established by*
6 *a compact between two or more*
7 *States; and*

8 “(ii) *the incorporated munici-*
9 *palities, counties, and parishes*
10 *that they encompass.*

11 “(10) *TASK FORCE.—The term ‘Task*
12 *Force’ means the Task Force on Essential*
13 *Capabilities for First Responders estab-*
14 *lished under section 1804.*

15 “SEC. 1802. *FASTER AND SMARTER FUNDING FOR FIRST RE-*
16 *SPONDERS.*

17 “(a) *COVERED GRANTS.—This title applies*
18 *to grants provided by the Department to*
19 *States, regions, or directly eligible tribes for*
20 *the primary purpose of improving the ability*
21 *of first responders to prevent, prepare for, re-*
22 *spond to, or mitigate threatened or actual ter-*
23 *rorist attacks, especially those involving weap-*
24 *ons of mass destruction, administered under*
25 *the following:*

1 **“(1) STATE HOMELAND SECURITY GRANT**
2 **PROGRAM.—The State Homeland Security**
3 **Grant Program of the Department, or any**
4 **successor to such grant program.**

5 **“(2) URBAN AREA SECURITY INITIATIVE.—**
6 **The Urban Area Security Initiative of the**
7 **Department, or any successor to such**
8 **grant program.**

9 **“(3) LAW ENFORCEMENT TERRORISM PRE-**
10 **VENTION PROGRAM.—The Law Enforcement**
11 **Terrorism Prevention Program of the De-**
12 **partment, or any successor to such grant**
13 **program.**

14 **“(4) CITIZEN CORPS PROGRAM.—The Cit-**
15 **izen Corps Program of the Department, or**
16 **any successor to such grant program.**

17 **“(b) EXCLUDED PROGRAMS.—This title does**
18 **not apply to or otherwise affect the following**
19 **Federal grant programs or any grant under**
20 **such a program:**

21 **“(1) NONDEPARTMENT PROGRAMS.—Any**
22 **Federal grant program that is not admin-**
23 **istered by the Department.**

24 **“(2) FIRE GRANT PROGRAMS.—The fire**
25 **grant programs authorized by sections 33**

1 *and 34 of the Federal Fire Prevention and*
2 *Control Act of 1974 (15 U.S.C. 2229,*
3 *2229a).*

4 “(3) *EMERGENCY MANAGEMENT PLANNING*
5 *AND ASSISTANCE ACCOUNT GRANTS.—The*
6 *Emergency Management Performance*
7 *Grant program and the Urban Search*
8 *and Rescue Grants program authorized*
9 *by title VI of the Robert T. Stafford Dis-*
10 *aster Relief and Emergency Assistance Act*
11 *(42 U.S.C. 5195 et seq.); the Departments*
12 *of Veterans Affairs and Housing and*
13 *Urban Development, and Independent*
14 *Agencies Appropriations Act, 2000 (113*
15 *Stat. 1047 et seq.); and the Earthquake*
16 *Hazards Reduction Act of 1977 (42 U.S.C.*
17 *7701 et seq.).*

18 “SEC. 1803. *ESSENTIAL CAPABILITIES FOR FIRST RESPOND-*
19 *ERS.*

20 “(a) *ESTABLISHMENT OF ESSENTIAL CAPA-*
21 *BILITIES.—*

22 “(1) *IN GENERAL.—For purposes of cov-*
23 *ered grants, the Secretary shall establish*
24 *clearly defined essential capabilities for*

1 ***State and local government preparedness***
2 ***for terrorism, in consultation with—***

3 ***“(A) the Task Force on Essential***
4 ***Capabilities for First Responders es-***
5 ***tablished under section 1804;***

6 ***“(B) the Under Secretaries for***
7 ***Emergency Preparedness and Re-***
8 ***sponse, Border and Transportation***
9 ***Security, Information Analysis and In-***
10 ***frastructure Protection, and Science***
11 ***and Technology, and the Director of***
12 ***the Office for Domestic Preparedness;***

13 ***“(C) the Secretary of Health and***
14 ***Human Services;***

15 ***“(D) other appropriate Federal***
16 ***agencies;***

17 ***“(E) State and local first re-***
18 ***sponder agencies and officials; and***

19 ***“(F) consensus-based standard***
20 ***making organizations responsible for***
21 ***setting standards relevant to the first***
22 ***responder community.***

23 ***“(2) DEADLINES.—The Secretary***
24 ***shall—***

1 “(A) *establish essential capabili-*
2 *ties under paragraph (1) within 30*
3 *days after receipt of the report under*
4 *section 1804(b); and*

5 “(B) *regularly update such essen-*
6 *tial capabilities as necessary, but not*
7 *less than every 3 years.*

8 “(3) *PROVISION OF ESSENTIAL CAPABILI-*
9 *TIES.—The Secretary shall ensure that a*
10 *detailed description of the essential capa-*
11 *bilities established under paragraph (1) is*
12 *provided promptly to the States and to the*
13 *Congress. The States shall make the es-*
14 *sential capabilities available as necessary*
15 *and appropriate to local governments*
16 *within their jurisdictions.*

17 “(b) *OBJECTIVES.—The Secretary shall en-*
18 *sure that essential capabilities established*
19 *under subsection (a)(1) meet the following ob-*
20 *jectives:*

21 “(1) *SPECIFICITY.—The determination*
22 *of essential capabilities specifically shall*
23 *describe the training, planning, per-*
24 *sonnel, and equipment that different types*
25 *of communities in the Nation should pos-*

1 *sess, or to which they should have access,*
2 *in order to meet the Department's goals*
3 *for terrorism preparedness based upon—*

4 “(A) *the most current risk assess-*
5 *ment available by the Directorate for*
6 *Information Analysis and Infrastruc-*
7 *ture Protection of the threats of ter-*
8 *rorism against the United States;*

9 “(B) *the types of threats,*
10 *vulnerabilities, geography, size, and*
11 *other factors that the Secretary has*
12 *determined to be applicable to each*
13 *different type of community; and*

14 “(C) *the principles of regional co-*
15 *ordination and mutual aid among*
16 *State and local governments.*

17 “(2) *FLEXIBILITY.—The establishment*
18 *of essential capabilities shall be suffi-*
19 *ciently flexible to allow State and local*
20 *government officials to set priorities*
21 *based on particular needs, while reaching*
22 *nationally determined terrorism pre-*
23 *paredness levels within a specified time*
24 *period.*

1 “(3) *MEASURABILITY.—The establish-*
2 *ment of essential capabilities shall be de-*
3 *signed to enable measurement of progress*
4 *towards specific terrorism preparedness*
5 *goals.*

6 “(4) *COMPREHENSIVENESS.—The deter-*
7 *mination of essential capabilities for ter-*
8 *rorism preparedness shall be made within*
9 *the context of a comprehensive State*
10 *emergency management system.*

11 “(c) *FACTORS TO BE CONSIDERED.—*

12 “(1) *IN GENERAL.—In establishing es-*
13 *sential capabilities under subsection*
14 *(a)(1), the Secretary specifically shall con-*
15 *sider the variables of threat, vulner-*
16 *ability, and consequences with respect to*
17 *the Nation’s population (including tran-*
18 *sient commuting and tourist populations)*
19 *and critical infrastructure. Such consid-*
20 *eration shall be based upon the most cur-*
21 *rent risk assessment available by the Di-*
22 *rectorate for Information Analysis and In-*
23 *frastructure Protection of the threats of*
24 *terrorism against the United States.*

1 **“(2) CRITICAL INFRASTRUCTURE SEC-**
2 **TORS.—The Secretary specifically shall**
3 **consider threats of terrorism against the**
4 **following critical infrastructure sectors in**
5 **all areas of the Nation, urban and rural:**

6 **“(A) Agriculture.**

7 **“(B) Banking and finance.**

8 **“(C) Chemical industries.**

9 **“(D) The defense industrial base.**

10 **“(E) Emergency services.**

11 **“(F) Energy.**

12 **“(G) Food.**

13 **“(H) Government.**

14 **“(I) Postal and shipping.**

15 **“(J) Public health.**

16 **“(K) Information and tele-**
17 **communications networks.**

18 **“(L) Transportation.**

19 **“(M) Water.**

20 ***The order in which the critical infrastruc-***
21 ***ture sectors are listed in this paragraph***
22 ***shall not be construed as an order of pri-***
23 ***ority for consideration of the importance***
24 ***of such sectors.***

1 **“(3) TYPES OF THREAT.—The Secretary**
2 **specifically shall consider the following**
3 **types of threat to the critical infrastruc-**
4 **ture sectors described in paragraph (2),**
5 **and to populations in all areas of the Na-**
6 **tion, urban and rural:**

7 **“(A) Biological threats.**

8 **“(B) Nuclear threats.**

9 **“(C) Radiological threats.**

10 **“(D) Incendiary threats.**

11 **“(E) Chemical threats.**

12 **“(F) Explosives.**

13 **“(G) Suicide bombers.**

14 **“(H) Cyber threats.**

15 **“(I) Any other threats based on**
16 **proximity to specific past acts of ter-**
17 **rorism or the known activity of any**
18 **terrorist group.**

19 **The order in which the types of threat are**
20 **listed in this paragraph shall not be con-**
21 **strued as an order of priority for consider-**
22 **ation of the importance of such threats.**

23 **“(4) CONSIDERATION OF ADDITIONAL**
24 **FACTORS.—In establishing essential capa-**
25 **bilities under subsection (a)(1), the Sec-**

8 “(a) *ESTABLISHMENT.—To assist the Sec-*
9 *retary in establishing essential capabilities*
10 *under section 1803(a)(1), the Secretary shall*
11 *establish an advisory body pursuant to section*
12 *871(a) not later than 60 days after the date of*
13 *the enactment of this section, which shall be*
14 *known as the Task Force on Essential Capa-*
15 *bilities for First Responders.*

“(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

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1 “(A) *include a priority ranking of*
2 *essential capabilities in order to pro-*
3 *vide guidance to the Secretary and to*
4 *the Congress on determining the ap-*
5 *propriate allocation of, and funding*
6 *levels for, first responder needs;*

7 “(B) *set forth a methodology by*
8 *which any State or local government*
9 *will be able to determine the extent to*
10 *which it possesses or has access to the*
11 *essential capabilities that States and*
12 *local governments having similar*
13 *risks should obtain;*

14 “(C) *describe the availability of*
15 *national voluntary consensus stand-*
16 *ards, and whether there is a need for*
17 *new national voluntary consensus*
18 *standards, with respect to first re-*
19 *sponder training and equipment;*

20 “(D) *include such additional mat-*
21 *ters as the Secretary may specify in*
22 *order to further the terrorism pre-*
23 *paredness capabilities of first re-*
24 *sponders; and*

1 “(E) include such revisions to the
2 contents of past reports as are nec-
3 essary to take into account changes in
4 the most current risk assessment
5 available by the Directorate for Infor-
6 mation Analysis and Infrastructure
7 Protection or other relevant informa-
8 tion as determined by the Secretary.

9 “(3) **CONSISTENCY WITH FEDERAL WORK-**
10 **ING GROUP.**—*The Task Force shall ensure*
11 *that its recommendations for essential ca-*
12 *pabilities are, to the extent feasible, con-*
13 *sistent with any preparedness goals or*
14 *recommendations of the Federal working*
15 *group established under section 319F(a)*
16 *of the Public Health Service Act (42 U.S.C.*
17 *247d–6(a)).*

18 “(4) **COMPREHENSIVENESS.**—*The Task*
19 *Force shall ensure that its recommenda-*
20 *tions regarding essential capabilities for*
21 *terrorism preparedness are made within*
22 *the context of a comprehensive State*
23 *emergency management system.*

24 “(5) **PRIOR MEASURES.**—*The Task Force*
25 *shall ensure that its recommendations re-*

1 *garding essential capabilities for ter-*
2 *rorism preparedness take into account*
3 *any capabilities that State or local offi-*
4 *cial have determined to be essential and*
5 *have undertaken since September 11,*
6 *2001, to prevent or prepare for terrorist*
7 *attacks.*

8 *“(c) MEMBERSHIP.—*

9 *“(1) IN GENERAL.—The Task Force*
10 *shall consist of 25 members appointed by*
11 *the Secretary, and shall, to the extent*
12 *practicable, represent a geographic and*
13 *substantive cross section of governmental*
14 *and nongovernmental first responder dis-*
15 *ciplines from the State and local levels,*
16 *including as appropriate—*

17 *“(A) members selected from the*
18 *emergency response field, including*
19 *fire service and law enforcement, haz-*
20 *ardous materials response, emergency*
21 *medical services, and emergency man-*
22 *agement personnel (including public*
23 *works personnel routinely engaged in*
24 *emergency response);*

1 “(B) *health scientists, emergency*
2 *and inpatient medical providers, and*
3 *public health professionals, including*
4 *experts in emergency health care re-*
5 *sponse to chemical, biological, radio-*
6 *logical, and nuclear terrorism, and*
7 *experts in providing mental health*
8 *care during emergency response oper-*
9 *ations;*

10 “(C) *experts from Federal, State,*
11 *and local governments, and the pri-*
12 *vate sector, representing standards-*
13 *setting organizations, including rep-*
14 *resentation from the voluntary con-*
15 *sensus codes and standards develop-*
16 *ment community, particularly those*
17 *with expertise in first responder dis-*
18 *ciplines; and*

19 “(D) *State and local officials with*
20 *expertise in terrorism preparedness,*
21 *subject to the condition that if any*
22 *such official is an elected official rep-*
23 *resenting one of the two major polit-*
24 *ical parties, an equal number of elect-*

1 *ed officials shall be selected from each*
2 *such party.*

3 **“(2) COORDINATION WITH THE DEPART-**
4 **MENT OF HEALTH AND HEALTH SERVICES.—***In*
5 *the selection of members of the Task Force*
6 *who are health professionals, including*
7 *emergency medical professionals, the Sec-*
8 *retary shall coordinate the selection with*
9 *the Secretary of Health and Human Serv-*
10 *ices.*

11 **“(3) EX OFFICIO MEMBERS.—***The Sec-*
12 *retary and the Secretary of Health and*
13 *Human Services shall each designate one*
14 *or more officers of their respective Depart-*
15 *ments to serve as ex officio members of the*
16 *Task Force. One of the ex officio members*
17 *from the Department of Homeland Secu-*
18 *rity shall be the designated officer of the*
19 *Federal Government for purposes of sub-*
20 *section (e) of section 10 of the Federal Ad-*
21 *visory Committee Act (5 App. U.S.C.).*

22 **“(d) APPLICABILITY OF FEDERAL ADVISORY**
23 **COMMITTEE ACT.—***Notwithstanding section*
24 *871(a), the Federal Advisory Committee Act (5*
25 *U.S.C. App.), including subsections (a), (b),*

1 *and (d) of section 10 of such Act, and section*
2 *552b(c) of title 5, United States Code, shall*
3 *apply to the Task Force.*

4 *“SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.*

5 *“(a) GRANT ELIGIBILITY.—Any State, region,*
6 *or directly eligible tribe shall be eligible to*
7 *apply for a covered grant.*

8 *“(b) GRANT CRITERIA.—In awarding cov-*
9 *ered grants, the Secretary shall assist States*
10 *and local governments in achieving, main-*
11 *taining, and enhancing the essential capabili-*
12 *ties for first responders established by the Sec-*
13 *retary under section 1803.*

14 *“(c) STATE HOMELAND SECURITY PLANS.—*

15 *“(1) SUBMISSION OF PLANS.—The Sec-*
16 *retary shall require that any State apply-*
17 *ing to the Secretary for a covered grant*
18 *must submit to the Secretary a 3-year*
19 *State homeland security plan that—*

20 *“(A) demonstrates the extent to*
21 *which the State has achieved the es-*
22 *sential capabilities that apply to the*
23 *State;*

24 *“(B) demonstrates the needs of the*
25 *State necessary to achieve, maintain,*

1 *or enhance the essential capabilities*
2 *that apply to the State;*

3 *“(C) includes a prioritization of*
4 *such needs based on threat, vulner-*
5 *ability, and consequence assessment*
6 *factors applicable to the State;*

7 *“(D) describes how the State in-*
8 *tends—*

9 *“(i) to address such needs at*
10 *the city, county, regional, tribal,*
11 *State, and interstate level, includ-*
12 *ing a precise description of any re-*
13 *gional structure the State has es-*
14 *tablished for the purpose of orga-*
15 *nizing homeland security pre-*
16 *paredness activities funded by cov-*
17 *ered grants;*

18 *“(ii) to use all Federal, State,*
19 *and local resources available for*
20 *the purpose of addressing such*
21 *needs; and*

22 *“(iii) to give particular em-*
23 *phasis to regional planning and*
24 *cooperation, including the activi-*
25 *ties of multijurisdictional plan-*

1 *ning agencies governed by local*
2 *officials, both within its jurisdic-*
3 *tional borders and with neigh-*
4 *boring States;*

5 *“(E) is developed in consultation*
6 *with and subject to appropriate com-*
7 *ment by local governments within the*
8 *State; and*

9 *“(F) with respect to the emergency*
10 *preparedness of first responders, ad-*
11 *dresses the unique aspects of ter-*
12 *rorism as part of a comprehensive*
13 *State emergency management plan.*

14 *“(2) APPROVAL BY SECRETARY.—The*
15 *Secretary may not award any covered*
16 *grant to a State unless the Secretary has*
17 *approved the applicable State homeland*
18 *security plan.*

19 *“(d) CONSISTENCY WITH STATE PLANS.—The*
20 *Secretary shall ensure that each covered grant*
21 *is used to supplement and support, in a con-*
22 *sistent and coordinated manner, the applica-*
23 *ble State homeland security plan or plans.*

24 *“(e) APPLICATION FOR GRANT.—*

1 “(1) *IN GENERAL.—Except as otherwise*
2 *provided in this subsection, any State, re-*
3 *gion, or directly eligible tribe may apply*
4 *for a covered grant by submitting to the*
5 *Secretary an application at such time, in*
6 *such manner, and containing such infor-*
7 *mation as is required under this sub-*
8 *section, or as the Secretary may reason-*
9 *ably require.*

10 “(2) *DEADLINES FOR APPLICATIONS AND*
11 *AWARDS.—All applications for covered*
12 *grants must be submitted at such time as*
13 *the Secretary may reasonably require for*
14 *the fiscal year for which they are sub-*
15 *mitted. The Secretary shall award covered*
16 *grants pursuant to all approved applica-*
17 *tions for such fiscal year as soon as prac-*
18 *ticable, but not later than March 1 of*
19 *such year.*

20 “(3) *AVAILABILITY OF FUNDS.—All funds*
21 *awarded by the Secretary under covered*
22 *grants in a fiscal year shall be available*
23 *for obligation through the end of the sub-*
24 *sequent fiscal year.*

1 “(4) *MINIMUM CONTENTS OF APPLICA-*
2 *TION.—The Secretary shall require that*
3 *each applicant include in its application,*
4 *at a minimum—*

5 “(A) *the purpose for which the ap-*
6 *plicant seeks covered grant funds and*
7 *the reasons why the applicant needs*
8 *the covered grant to meet the essential*
9 *capabilities for terrorism prepared-*
10 *ness within the State, region, or di-*
11 *rectly eligible tribe to which the appli-*
12 *cation pertains;*

13 “(B) *a description of how, by ref-*
14 *erence to the applicable State home-*
15 *land security plan or plans under sub-*
16 *section (c), the allocation of grant*
17 *funding proposed in the application,*
18 *including, where applicable, the*
19 *amount not passed through under sec-*
20 *tion 1806(g)(1), would assist in ful-*
21 *filling the essential capabilities speci-*
22 *fied in such plan or plans;*

23 “(C) *a statement of whether a mu-*
24 *tual aid agreement applies to the use*

1 *of all or any portion of the covered*
2 *grant funds;*

3 “(D) *if the applicant is a State, a*
4 *description of how the State plans to*
5 *allocate the covered grant funds to re-*
6 *gions, local governments, and Indian*
7 *tribes;*

8 “(E) *if the applicant is a region—*

9 “(i) *a precise geographical de-*
10 *scription of the region and a spec-*
11 *ification of all participating and*
12 *nonparticipating local govern-*
13 *ments within the geographical*
14 *area comprising that region;*

15 “(ii) *a specification of what*
16 *governmental entity within the re-*
17 *gion will administer the expendi-*
18 *ture of funds under the covered*
19 *grant; and*

20 “(iii) *a designation of a spe-*
21 *cific individual to serve as re-*
22 *gional liaison;*

23 “(F) *a capital budget showing how*
24 *the applicant intends to allocate and*
25 *expend the covered grant funds;*

1 “(G) *if the applicant is a directly*
2 *eligible tribe, a designation of a spe-*
3 *cific individual to serve as the tribal*
4 *liaison; and*

5 “(H) *a statement of how the appli-*
6 *cant intends to meet the matching re-*
7 *quirement, if any, that applies under*
8 *section 1806(g)(2).*

9 “(5) *REGIONAL APPLICATIONS.—*

10 “(A) *RELATIONSHIP TO STATE APPLI-*
11 *CATIONS.—A regional application—*

12 “(i) *shall be coordinated with*
13 *an application submitted by the*
14 *State or States of which such re-*
15 *gion is a part;*

16 “(ii) *shall supplement and*
17 *avoid duplication with such State*
18 *application; and*

19 “(iii) *shall address the unique*
20 *regional aspects of such region’s*
21 *terrorism preparedness needs be-*
22 *yond those provided for in the ap-*
23 *plication of such State or States.*

24 “(B) *STATE REVIEW AND SUBMIS-*
25 *SION.—To ensure the consistency re-*

1 *quired under subsection (d) and the*
2 *coordination required under subpara-*
3 *graph (A) of this paragraph, an appli-*
4 *cant that is a region must submit its*
5 *application to each State of which*
6 *any part is included in the region for*
7 *review and concurrence prior to the*
8 *submission of such application to the*
9 *Secretary. The regional application*
10 *shall be transmitted to the Secretary*
11 *through each such State within 30*
12 *days of its receipt, unless the Governor*
13 *of such a State notifies the Secretary,*
14 *in writing, that such regional appli-*
15 *cation is inconsistent with the State's*
16 *homeland security plan and provides*
17 *an explanation of the reasons there-*
18 *for.*

19 **“(C) DISTRIBUTION OF REGIONAL**
20 **AWARDS.—***If the Secretary approves a*
21 *regional application, then the Sec-*
22 *retary shall distribute a regional*
23 *award to the State or States submit-*
24 *ting the applicable regional applica-*
25 *tion under subparagraph (B), and*

1 *each such State shall, not later than*
2 *the end of the 45-day period beginning*
3 *on the date after receiving a regional*
4 *award, pass through to the region all*
5 *covered grant funds or resources pur-*
6 *chased with such funds, except those*
7 *funds necessary for the State to carry*
8 *out its responsibilities with respect to*
9 *such regional application: Provided,*
10 *That in no such case shall the State*
11 *or States pass through to the region*
12 *less than 80 percent of the regional*
13 *award.*

14 “(D) CERTIFICATIONS REGARDING
15 DISTRIBUTION OF GRANT FUNDS TO RE-
16 GIONS.—Any State that receives a re-
17 gional award under subparagraph
18 (C) shall certify to the Secretary, by
19 not later than 30 days after the expi-
20 ration of the period described in sub-
21 paragraph (C) with respect to the
22 grant, that the State has made avail-
23 able to the region the required funds
24 and resources in accordance with sub-
25 paragraph (C).

1 “(E) **DIRECT PAYMENTS TO RE-**
2 **GIONS.—***If any State fails to pass*
3 *through a regional award to a region*
4 *as required by subparagraph (C) with-*
5 *in 45 days after receiving such award*
6 *and does not request or receive an ex-*
7 *tension of such period under section*
8 *1806(h)(2), the region may petition the*
9 *Secretary to receive directly the por-*
10 *tion of the regional award that is re-*
11 *quired to be passed through to such*
12 *region under subparagraph (C).*

13 “(F) **REGIONAL LIAISONS.—***A re-*
14 *gional liaison designated under para-*
15 *graph (4)(E)(iii) shall—*

16 “(i) *coordinate with Federal,*
17 *State, local, regional, and private*
18 *officials within the region con-*
19 *cerning terrorism preparedness;*

20 “(ii) *develop a process for re-*
21 *ceiving input from Federal, State,*
22 *local, regional, and private sector*
23 *officials within the region to as-*
24 *sist in the development of the re-*
25 *gional application and to improve*

1 *the region's access to covered*
2 *grants; and*

3 *“(iii) administer, in consulta-*
4 *tion with State, local, regional,*
5 *and private officials within the re-*
6 *gion, covered grants awarded to*
7 *the region.*

8 **“(6) TRIBAL APPLICATIONS.—**

9 **“(A) SUBMISSION TO THE STATE OR**
10 **STATES.—To ensure the consistency re-**
11 **quired under subsection (d), an appli-**
12 **cant that is a directly eligible tribe**
13 **must submit its application to each**
14 **State within the boundaries of which**
15 **any part of such tribe is located for**
16 **direct submission to the Department**
17 **along with the application of such**
18 **State or States.**

19 **“(B) OPPORTUNITY FOR STATE COM-**
20 **MENT.—Before awarding any covered**
21 **grant to a directly eligible tribe, the**
22 **Secretary shall provide an oppor-**
23 **tunity to each State within the bound-**
24 **aries of which any part of such tribe**
25 **is located to comment to the Secretary**

1 *on the consistency of the tribe's appli-*
2 *cation with the State's homeland secu-*
3 *rity plan. Any such comments shall be*
4 *submitted to the Secretary concur-*
5 *rently with the submission of the State*
6 *and tribal applications.*

7 “(C) *FINAL AUTHORITY.—The Sec-*
8 *retary shall have final authority to*
9 *determine the consistency of any ap-*
10 *plication of a directly eligible tribe*
11 *with the applicable State homeland*
12 *security plan or plans, and to approve*
13 *any application of such tribe. The Sec-*
14 *retary shall notify each State within*
15 *the boundaries of which any part of*
16 *such tribe is located of the approval of*
17 *an application by such tribe.*

18 “(D) *TRIBAL LIAISON.—A tribal liai-*
19 *son designated under paragraph*
20 *(4)(G) shall—*

21 “(i) *coordinate with Federal,*
22 *State, local, regional, and private*
23 *officials concerning terrorism pre-*
24 *paredness;*

1 “(ii) *develop a process for re-*
2 *ceiving input from Federal, State,*
3 *local, regional, and private sector*
4 *officials to assist in the develop-*
5 *ment of the application of such*
6 *tribe and to improve the tribe’s ac-*
7 *cess to covered grants; and*

8 “(iii) *administer, in consulta-*
9 *tion with State, local, regional,*
10 *and private officials, covered*
11 *grants awarded to such tribe.*

12 “(E) *LIMITATION ON THE NUMBER OF*
13 *DIRECT GRANTS.—The Secretary may*
14 *make covered grants directly to not*
15 *more than 20 directly eligible tribes*
16 *per fiscal year.*

17 “(F) *TRIBES NOT RECEIVING DIRECT*
18 *GRANTS.—An Indian tribe that does*
19 *not receive a grant directly under this*
20 *section is eligible to receive funds*
21 *under a covered grant from the State*
22 *or States within the boundaries of*
23 *which any part of such tribe is lo-*
24 *cated, consistent with the homeland*
25 *security plan of the State as described*

1 *in subsection (c). If a State fails to*
2 *comply with section 1806(g)(1), the*
3 *tribe may request payment under sec-*
4 *tion 1806(h)(3) in the same manner as*
5 *a local government.*

6 **“(7) EQUIPMENT STANDARDS.—***If an ap-*
7 *plicant for a covered grant proposes to*
8 *upgrade or purchase, with assistance pro-*
9 *vided under the grant, new equipment or*
10 *systems that do not meet or exceed any ap-*
11 *plicable national voluntary consensus*
12 *standards established by the Secretary*
13 *under section 1807(a), the applicant shall*
14 *include in the application an explanation*
15 *of why such equipment or systems will*
16 *serve the needs of the applicant better*
17 *than equipment or systems that meet or*
18 *exceed such standards.*

19 **“(f) FIRST RESPONDER GRANTS BOARD.—**

20 **“(1) ESTABLISHMENT OF BOARD.—***The*
21 *Secretary shall establish a First Re-*
22 *sponder Grants Board, consisting of—*

23 **“(A) the Secretary;**

24 **“(B) the Under Secretary for Emer-**
25 *gency Preparedness and Response;*

1 “(C) *the Under Secretary for Bor-*
2 *der and Transportation Security;*

3 “(D) *the Under Secretary for Infor-*
4 *mation Analysis and Infrastructure*
5 *Protection;*

6 “(E) *the Under Secretary for*
7 *Science and Technology; and*

8 “(F) *the Director of the Office for*
9 *Domestic Preparedness.*

10 “(2) *CHAIRMAN.—*

11 “(A) *IN GENERAL.—The Secretary*
12 *shall be the Chairman of the Board.*

13 “(B) *EXERCISE OF AUTHORITIES BY*
14 *DEPUTY SECRETARY.—The Deputy Sec-*
15 *retary of Homeland Security may exer-*
16 *cise the authorities of the Chairman,*
17 *if the Secretary so directs.*

18 “(3) *RANKING OF GRANT APPLICATIONS.—*

19 “(A) *PRIORITIZATION OF GRANTS.—*
20 *The Board—*

21 “(i) *shall evaluate and annu-*
22 *ally prioritize all pending appli-*
23 *cations for covered grants based*
24 *upon the degree to which they*
25 *would, by achieving, maintaining,*

1 *or enhancing the essential capa-*
2 *bilities of the applicants on a na-*
3 *tionwide basis, lessen the threat*
4 *to, vulnerability of, and con-*
5 *sequences for persons and critical*
6 *infrastructure; and*

7 *“(ii) in evaluating the threat*
8 *to persons and critical infrastruc-*
9 *ture for purposes of prioritizing*
10 *covered grants, shall give greater*
11 *weight to threats of terrorism*
12 *based on their specificity and*
13 *credibility, including any pattern*
14 *of repetition.*

15 *“(B) MINIMUM AMOUNTS.—After*
16 *evaluating and prioritizing grant ap-*
17 *plications under subparagraph (A),*
18 *the Board shall ensure that, for each*
19 *fiscal year—*

20 *“(i) each of the States, other*
21 *than the Virgin Islands, American*
22 *Samoa, Guam, and the Northern*
23 *Mariana Islands, that has an ap-*
24 *proved State homeland security*
25 *plan receives no less than 0.25*

1 *percent of the funds available for*
2 *covered grants for that fiscal year*
3 *for purposes of implementing its*
4 *homeland security plan in accord-*
5 *ance with the prioritization of*
6 *needs under subsection (c)(1)(C);*

7 *“(ii) each of the States, other*
8 *than the Virgin Islands, American*
9 *Samoa, Guam, and the Northern*
10 *Mariana Islands, that has an ap-*
11 *proved State homeland security*
12 *plan and that meets one or both of*
13 *the additional high-risk quali-*
14 *fying criteria under subpara-*
15 *graph (C) receives no less than*
16 *0.45 percent of the funds available*
17 *for covered grants for that fiscal*
18 *year for purposes of implementing*
19 *its homeland security plan in ac-*
20 *cordance with the prioritization of*
21 *needs under subsection (c)(1)(C);*

22 *“(iii) the Virgin Islands, Amer-*
23 *ican Samoa, Guam, and the*
24 *Northern Mariana Islands each*
25 *receives no less than 0.08 percent*

1 *of the funds available for covered*
2 *grants for that fiscal year for pur-*
3 *poses of implementing its ap-*
4 *proved State homeland security*
5 *plan in accordance with the*
6 *prioritization of needs under sub-*
7 *section (c)(1)(C); and*

8 *“(iv) directly eligible tribes*
9 *collectively receive no less than*
10 *0.08 percent of the funds available*
11 *for covered grants for such fiscal*
12 *year for purposes of addressing*
13 *the needs identified in the appli-*
14 *cations of such tribes, consistent*
15 *with the homeland security plan*
16 *of each State within the bound-*
17 *aries of which any part of any*
18 *such tribe is located, except that*
19 *this clause shall not apply with*
20 *respect to funds available for a*
21 *fiscal year if the Secretary re-*
22 *ceives less than 5 applications for*
23 *such fiscal year from such tribes*
24 *under subsection (e)(6)(A) or does*

1 *not approve at least one such ap-*
2 *plication.*

3 “(C) *ADDITIONAL HIGH-RISK QUALI-*
4 *FYING CRITERIA.—For purposes of sub-*
5 *paragraph (B)(ii), additional high-*
6 *risk qualifying criteria consist of—*

7 “(i) *having a significant inter-*
8 *national land border; or*

9 “(ii) *adjoining a body of water*
10 *within North America through*
11 *which an international boundary*
12 *line extends.*

13 “(4) *EFFECT OF REGIONAL AWARDS ON*
14 *STATE MINIMUM.—Any regional award, or*
15 *portion thereof, provided to a State under*
16 *subsection (e)(5)(C) shall not be consid-*
17 *ered in calculating the minimum State*
18 *award under paragraph (3)(B) of this*
19 *subsection.*

20 “(5) *FUNCTIONS OF UNDER SECRE-*
21 *TARIES.—The Under Secretaries referred to*
22 *in paragraph (1) shall seek to ensure that*
23 *the relevant expertise and input of the*
24 *staff of their directorates are available to*
25 *and considered by the Board.*

1 “SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIRE-
2 MENTS.

3 “(a) *IN GENERAL.*—A covered grant may be
4 *used for—*

5 “(1) *purchasing or upgrading equip-*
6 *ment, including computer software, to en-*
7 *hance terrorism preparedness and re-*
8 *sponse;*

9 “(2) *exercises to strengthen terrorism*
10 *preparedness and response;*

11 “(3) *training for prevention (includ-*
12 *ing detection) of, preparedness for, or re-*
13 *sponse to attacks involving weapons of*
14 *mass destruction, including training in*
15 *the use of equipment and computer soft-*
16 *ware;*

17 “(4) *developing or updating response*
18 *plans;*

19 “(5) *establishing or enhancing mecha-*
20 *nisms for sharing terrorism threat infor-*
21 *mation;*

22 “(6) *systems architecture and engi-*
23 *neering, program planning and manage-*
24 *ment, strategy formulation and strategic*
25 *planning, life-cycle systems design, prod-*
26 *uct and technology evaluation, and proto-*

1 *type development for terrorism prepared-*
2 *ness and response purposes;*

3 *“(7) additional personnel costs result-*
4 *ing from—*

5 *“(A) elevations in the threat alert*
6 *level of the Homeland Security Advi-*
7 *sory System by the Secretary, or a*
8 *similar elevation in threat alert level*
9 *issued by a State, region, or local gov-*
10 *ernment with the approval of the Sec-*
11 *retary;*

12 *“(B) travel to and participation in*
13 *exercises and training in the use of*
14 *equipment and on prevention activi-*
15 *ties; and*

16 *“(C) the temporary replacement of*
17 *personnel during any period of travel*
18 *to and participation in exercises and*
19 *training in the use of equipment and*
20 *on prevention activities;*

21 *“(8) the costs of equipment (including*
22 *software) required to receive, transmit,*
23 *handle, and store classified information;*

24 *“(9) protecting critical infrastructure*
25 *against potential attack by the addition*

1 *of barriers, fences, gates, and other such*
2 *devices, except that the cost of such meas-*
3 *ures may not exceed the greater of—*

4 *“(A) \$1,000,000 per project; or*

5 *“(B) such greater amount as may*
6 *be approved by the Secretary, which*
7 *may not exceed 10 percent of the total*
8 *amount of the covered grant;*

9 *“(10) the costs of commercially avail-*
10 *able interoperable communications equip-*
11 *ment (which, where applicable, is based*
12 *on national, voluntary consensus stand-*
13 *ards) that the Secretary, in consultation*
14 *with the Chairman of the Federal Com-*
15 *munications Commission, deems best suit-*
16 *ed to facilitate interoperability, coordina-*
17 *tion, and integration between and among*
18 *emergency communications systems, and*
19 *that complies with prevailing grant guid-*
20 *ance of the Department for interoperable*
21 *communications;*

22 *“(11) educational curricula develop-*
23 *ment for first responders to ensure that*
24 *they are prepared for terrorist attacks;*

1 “(12) *training and exercises to assist*
2 *public elementary and secondary schools*
3 *in developing and implementing pro-*
4 *grams to instruct students regarding age-*
5 *appropriate skills to prepare for and re-*
6 *spond to an act of terrorism;*

7 “(13) *paying of administrative ex-*
8 *penses directly related to administration*
9 *of the grant, except that such expenses*
10 *may not exceed 3 percent of the amount of*
11 *the grant; and*

12 “(14) *other appropriate activities as*
13 *determined by the Secretary.*

14 “(b) *PROHIBITED USES.—Funds provided as*
15 *a covered grant may not be used—*

16 “(1) *to supplant State or local funds;*

17 “(2) *to construct buildings or other*
18 *physical facilities;*

19 “(3) *to acquire land; or*

20 “(4) *for any State or local government*
21 *cost sharing contribution.*

22 “(c) *MULTIPLE-PURPOSE FUNDS.—Nothing*
23 *in this section shall be construed to preclude*
24 *State and local governments from using cov-*
25 *ered grant funds in a manner that also en-*

1 *hances first responder preparedness for emer-*
2 *gencies and disasters unrelated to acts of ter-*
3 *rorism, if such use assists such governments in*
4 *achieving essential capabilities for terrorism*
5 *preparedness established by the Secretary*
6 *under section 1803.*

7 “(d) **REIMBURSEMENT OF COSTS.**—*In addi-*
8 *tion to the activities described in subsection*
9 *(a), a covered grant may be used to provide a*
10 *reasonable stipend to paid-on-call or volunteer*
11 *first responders who are not otherwise com-*
12 *pensated for travel to or participation in*
13 *training covered by this section. Any such re-*
14 *imbursement shall not be considered com-*
15 *pensation for purposes of rendering such a*
16 *first responder an employee under the Fair*
17 *Labor Standards Act of 1938 (29 U.S.C. 201 et*
18 *seq.).*

19 “(e) **ASSISTANCE REQUIREMENT.**—*The Sec-*
20 *retary may not request that equipment paid*
21 *for, wholly or in part, with funds provided as*
22 *a covered grant be made available for re-*
23 *sponding to emergencies in surrounding*
24 *States, regions, and localities, unless the Sec-*
25 *retary undertakes to pay the costs directly at-*

1 *tributable to transporting and operating such*
2 *equipment during such response.*

3 “(f) *FLEXIBILITY IN UNSPENT HOMELAND SE-*
4 *URITY GRANT FUNDS.—Upon request by the re-*
5 *cipient of a covered grant, the Secretary may*
6 *authorize the grantee to transfer all or part of*
7 *funds provided as the covered grant from uses*
8 *specified in the grant agreement to other uses*
9 *authorized under this section, if the Secretary*
10 *determines that such transfer is in the inter-*
11 *ests of homeland security.*

12 “(g) *STATE, REGIONAL, AND TRIBAL RESPON-*
13 *SIBILITIES.—*

14 “(1) *PASS-THROUGH.—The Secretary*
15 *shall require a recipient of a covered*
16 *grant that is a State to obligate or other-*
17 *wise make available to local governments,*
18 *first responders, and other local groups,*
19 *to the extent required under the State*
20 *homeland security plan or plans specified*
21 *in the application for the grant, not less*
22 *than 80 percent of the grant funds, re-*
23 *sources purchased with the grant funds*
24 *having a value equal to at least 80 per-*
25 *cent of the amount of the grant, or a com-*

1 ***bination thereof, by not later than the end***
2 ***of the 45-day period beginning on the date***
3 ***the grant recipient receives the grant***
4 ***funds.***

5 ***“(2) COST SHARING.—***

6 ***“(A) IN GENERAL.—The Federal***
7 ***share of the costs of an activity car-***
8 ***ried out with a covered grant to a***
9 ***State, region, or directly eligible tribe***
10 ***awarded after the 2-year period begin-***
11 ***ning on the date of the enactment of***
12 ***this section shall not exceed 75 per-***
13 ***cent.***

14 ***“(B) INTERIM RULE.—The Federal***
15 ***share of the costs of an activity car-***
16 ***ried out with a covered grant award-***
17 ***ed before the end of the 2-year period***
18 ***beginning on the date of the enact-***
19 ***ment of this section shall be 100 per-***
20 ***cent.***

21 ***“(C) IN-KIND MATCHING.—Each re-***
22 ***cipient of a covered grant may meet***
23 ***the matching requirement under sub-***
24 ***paragraph (A) by making in-kind con-***
25 ***tributions of goods or services that are***

1 *directly linked with the purpose for*
2 *which the grant is made, including,*
3 *but not limited to, any necessary per-*
4 *sonnel overtime, contractor services,*
5 *administrative costs, equipment fuel*
6 *and maintenance, and rental space.*

7 **“(3) CERTIFICATIONS REGARDING DIS-**
8 **TRIBUTION OF GRANT FUNDS TO LOCAL GOV-**
9 **ERNMENTS.—Any State that receives a cov-**
10 **ered grant shall certify to the Secretary,**
11 **by not later than 30 days after the expira-**
12 **tion of the period described in paragraph**
13 **(1) with respect to the grant, that the**
14 **State has made available for expenditure**
15 **by local governments, first responders,**
16 **and other local groups the required**
17 **amount of grant funds pursuant to para-**
18 **graph (1).**

19 **“(4) QUARTERLY REPORT ON HOMELAND**
20 **SECURITY SPENDING.—The Federal share**
21 **described in paragraph (2)(A) may be in-**
22 **creased by up to 2 percent for any State,**
23 **region, or directly eligible tribe that, not**
24 **later than 30 days after the end of each**
25 **fiscal quarter, submits to the Secretary a**

1 *report on that fiscal quarter. Each such*
2 *report must include, for each recipient of*
3 *a covered grant or a pass-through under*
4 *paragraph (1)—*

5 *“(A) the amount obligated to that*
6 *recipient in that quarter;*

7 *“(B) the amount expended by that*
8 *recipient in that quarter; and*

9 *“(C) a summary description of the*
10 *items purchased by such recipient*
11 *with such amount.*

12 *“(5) ANNUAL REPORT ON HOMELAND SE-*
13 *CURITY SPENDING.—Each recipient of a cov-*
14 *ered grant shall submit an annual report*
15 *to the Secretary not later than 60 days*
16 *after the end of each fiscal year. Each re-*
17 *cipient of a covered grant that is a region*
18 *must simultaneously submit its report to*
19 *each State of which any part is included*
20 *in the region. Each recipient of a covered*
21 *grant that is a directly eligible tribe must*
22 *simultaneously submit its report to each*
23 *State within the boundaries of which any*
24 *part of such tribe is located. Each report*
25 *must include the following:*

1 “(A) *The amount, ultimate recipi-*
2 *ents, and dates of receipt of all funds*
3 *received under the grant during the*
4 *previous fiscal year.*

5 “(B) *The amount and the dates of*
6 *disbursements of all such funds ex-*
7 *pende in compliance with paragraph*
8 *(1) or pursuant to mutual aid agree-*
9 *ments or other sharing arrangements*
10 *that apply within the State, region, or*
11 *directly eligible tribe, as applicable,*
12 *during the previous fiscal year.*

13 “(C) *How the funds were utilized*
14 *by each ultimate recipient or bene-*
15 *ficiary during the preceding fiscal*
16 *year.*

17 “(D) *The extent to which essential*
18 *capabilities identified in the applica-*
19 *ble State homeland security plan or*
20 *plans were achieved, maintained, or*
21 *enhanced as the result of the expendi-*
22 *ture of grant funds during the pre-*
23 *ceding fiscal year.*

24 “(E) *The extent to which essential*
25 *capabilities identified in the applica-*

1 *ble State homeland security plan or*
 2 *plans remain unmet.*

3 “(6) *INCLUSION OF RESTRICTED AN-*
 4 *NEXES.—A recipient of a covered grant*
 5 *may submit to the Secretary an annex to*
 6 *the annual report under paragraph (5)*
 7 *that is subject to appropriate handling re-*
 8 *strictions, if the recipient believes that*
 9 *discussion in the report of unmet needs*
 10 *would reveal sensitive but unclassified in-*
 11 *formation.*

12 “(7) *PROVISION OF REPORTS.—The Sec-*
 13 *retary shall ensure that each annual re-*
 14 *port under paragraph (5) is provided to*
 15 *the Under Secretary for Emergency Pre-*
 16 *paredness and Response and the Director*
 17 *of the Office for Domestic Preparedness.*

18 “(h) *INCENTIVES TO EFFICIENT ADMINISTRA-*
 19 *TION OF HOMELAND SECURITY GRANTS.—*

20 “(1) *PENALTIES FOR DELAY IN PASSING*
 21 *THROUGH LOCAL SHARE.—If a recipient of a*
 22 *covered grant that is a State fails to pass*
 23 *through to local governments, first re-*
 24 *sponders, and other local groups funds or*
 25 *resources required by subsection (g)(1)*

1 *within 45 days after receiving funds*
2 *under the grant, the Secretary may—*

3 “(A) *reduce grant payments to the*
4 *grant recipient from the portion of*
5 *grant funds that is not required to be*
6 *passed through under subsection*
7 *(g)(1);*

8 “(B) *terminate payment of funds*
9 *under the grant to the recipient, and*
10 *transfer the appropriate portion of*
11 *those funds directly to local first re-*
12 *sponders that were intended to receive*
13 *funding under that grant; or*

14 “(C) *impose additional restric-*
15 *tions or burdens on the recipient’s use*
16 *of funds under the grant, which may*
17 *include—*

18 “(i) *prohibiting use of such*
19 *funds to pay the grant recipient’s*
20 *grant-related overtime or other ex-*
21 *penses;*

22 “(ii) *requiring the grant re-*
23 *cipient to distribute to local gov-*
24 *ernment beneficiaries all or a por-*
25 *tion of grant funds that are not*

1 *required to be passed through*
2 *under subsection (g)(1); or*

3 *“(iii) for each day that the*
4 *grant recipient fails to pass*
5 *through funds or resources in ac-*
6 *cordance with subsection (g)(1),*
7 *reducing grant payments to the*
8 *grant recipient from the portion of*
9 *grant funds that is not required to*
10 *be passed through under sub-*
11 *section (g)(1), except that the total*
12 *amount of such reduction may not*
13 *exceed 20 percent of the total*
14 *amount of the grant.*

15 **“(2) EXTENSION OF PERIOD.—***The Gov-*
16 *ernor of a State may request in writing*
17 *that the Secretary extend the 45-day pe-*
18 *riod under section 1805(e)(5)(E) or para-*
19 *graph (1) for an additional 15-day period.*
20 *The Secretary may approve such a re-*
21 *quest, and may extend such period for ad-*
22 *ditional 15-day periods, if the Secretary*
23 *determines that the resulting delay in pro-*
24 *viding grant funding to the local govern-*
25 *ment entities that will receive funding*

1 *under the grant will not have a signifi-*
2 *cant detrimental impact on such entities'*
3 *terrorism preparedness efforts.*

4 *“(3) PROVISION OF NON-LOCAL SHARE TO*
5 *LOCAL GOVERNMENT.—*

6 *“(A) IN GENERAL.—The Secretary*
7 *may upon request by a local govern-*
8 *ment pay to the local government a*
9 *portion of the amount of a covered*
10 *grant awarded to a State in which the*
11 *local government is located, if—*

12 *“(i) the local government will*
13 *use the amount paid to expedite*
14 *planned enhancements to its ter-*
15 *rorism preparedness as described*
16 *in any applicable State homeland*
17 *security plan or plans;*

18 *“(ii) the State has failed to*
19 *pass through funds or resources in*
20 *accordance with subsection (g)(1);*
21 *and*

22 *“(iii) the local government*
23 *complies with subparagraphs (B)*
24 *and (C).*

1 “(B) *SHOWING REQUIRED.—To re-*
2 *ceive a payment under this para-*
3 *graph, a local government must dem-*
4 *onstrate that—*

5 “(i) *it is identified explicitly as*
6 *an ultimate recipient or intended*
7 *beneficiary in the approved grant*
8 *application;*

9 “(ii) *it was intended by the*
10 *grantee to receive a severable por-*
11 *tion of the overall grant for a spe-*
12 *cific purpose that is identified in*
13 *the grant application;*

14 “(iii) *it petitioned the grantee*
15 *for the funds or resources after ex-*
16 *piration of the period within*
17 *which the funds or resources were*
18 *required to be passed through*
19 *under subsection (g)(1); and*

20 “(iv) *it did not receive the por-*
21 *tion of the overall grant that was*
22 *earmarked or designated for its*
23 *use or benefit.*

1 “(C) *EFFECT OF PAYMENT.—Pay-*
2 *ment of grant funds to a local govern-*
3 *ment under this paragraph—*

4 “(i) *shall not affect any pay-*
5 *ment to another local government*
6 *under this paragraph; and*

7 “(ii) *shall not prejudice con-*
8 *sideration of a request for pay-*
9 *ment under this paragraph that is*
10 *submitted by another local govern-*
11 *ment.*

12 “(D) *DEADLINE FOR ACTION BY SEC-*
13 *RETARY.—The Secretary shall approve*
14 *or disapprove each request for pay-*
15 *ment under this paragraph by not*
16 *later than 15 days after the date the*
17 *request is received by the Department.*

18 “(i) *REPORTS TO CONGRESS.—The Secretary*
19 *shall submit an annual report to the Congress*
20 *by December 31 of each year—*

21 “(1) *describing in detail the amount of*
22 *Federal funds provided as covered grants*
23 *that were directed to each State, region,*
24 *and directly eligible tribe in the preceding*
25 *fiscal year;*

1 “(2) *containing information on the use*
2 *of such grant funds by grantees; and*

3 “(3) *describing—*

4 “(A) *the Nation’s progress in*
5 *achieving, maintaining, and enhanc-*
6 *ing the essential capabilities estab-*
7 *lished under section 1803(a) as a re-*
8 *sult of the expenditure of covered*
9 *grant funds during the preceding fis-*
10 *cal year; and*

11 “(B) *an estimate of the amount of*
12 *expenditures required to attain across*
13 *the United States the essential capa-*
14 *bilities established under section*
15 *1803(a).*

16 “SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER
17 EQUIPMENT AND TRAINING.

18 “(a) *EQUIPMENT STANDARDS.—*

19 “(1) *IN GENERAL.—The Secretary, in*
20 *consultation with the Under Secretaries*
21 *for Emergency Preparedness and Re-*
22 *sponse and Science and Technology and*
23 *the Director of the Office for Domestic*
24 *Preparedness, shall, not later than 6*
25 *months after the date of enactment of this*

1 *section, support the development of, pro-*
2 *mulgate, and update as necessary na-*
3 *tional voluntary consensus standards for*
4 *the performance, use, and validation of*
5 *first responder equipment for purposes of*
6 *section 1805(e)(7). Such standards—*

7 *“(A) shall be, to the maximum ex-*
8 *tent practicable, consistent with any*
9 *existing voluntary consensus stand-*
10 *ards;*

11 *“(B) shall take into account, as*
12 *appropriate, new types of terrorism*
13 *threats that may not have been con-*
14 *templated when such existing stand-*
15 *ards were developed;*

16 *“(C) shall be focused on maxi-*
17 *mizing interoperability, interchange-*
18 *ability, durability, flexibility, effi-*
19 *ciency, efficacy, portability, sustain-*
20 *ability, and safety; and*

21 *“(D) shall cover all appropriate*
22 *uses of the equipment.*

23 *“(2) REQUIRED CATEGORIES.—In car-*
24 *rying out paragraph (1), the Secretary*

1 *shall specifically consider the following*
2 *categories of first responder equipment:*

3 “(A) *Thermal imaging equipment.*

4 “(B) *Radiation detection and*
5 *analysis equipment.*

6 “(C) *Biological detection and*
7 *analysis equipment.*

8 “(D) *Chemical detection and anal-*
9 *ysis equipment.*

10 “(E) *Decontamination and steri-*
11 *lization equipment.*

12 “(F) *Personal protective equip-*
13 *ment, including garments, boots,*
14 *gloves, and hoods and other protective*
15 *clothing.*

16 “(G) *Respiratory protection equip-*
17 *ment.*

18 “(H) *Interoperable communica-*
19 *tions, including wireless and wireline*
20 *voice, video, and data networks.*

21 “(I) *Explosive mitigation devices*
22 *and explosive detection and analysis*
23 *equipment.*

24 “(J) *Containment vessels.*

1 ***“(K) Contaminant-resistant vehi-***
2 ***cles.***

3 ***“(L) Such other equipment for***
4 ***which the Secretary determines that***
5 ***national voluntary consensus stand-***
6 ***ards would be appropriate.***

7 ***“(b) TRAINING STANDARDS.—***

8 ***“(1) IN GENERAL.—The Secretary, in***
9 ***consultation with the Under Secretaries***
10 ***for Emergency Preparedness and Re-***
11 ***sponse and Science and Technology and***
12 ***the Director of the Office for Domestic***
13 ***Preparedness, shall support the develop-***
14 ***ment of, promulgate, and regularly up-***
15 ***date as necessary national voluntary con-***
16 ***sensus standards for first responder***
17 ***training carried out with amounts pro-***
18 ***vided under covered grant programs, that***
19 ***will enable State and local government***
20 ***first responders to achieve optimal levels***
21 ***of terrorism preparedness as quickly as***
22 ***practicable. Such standards shall give***
23 ***priority to providing training to—***

24 ***“(A) enable first responders to pre-***
25 ***vent, prepare for, respond to, and***

1 *mitigate terrorist threats, including*
2 *threats from chemical, biological, nu-*
3 *clear, and radiological weapons and*
4 *explosive devices capable of inflicting*
5 *significant human casualties; and*

6 *“(B) familiarize first responders*
7 *with the proper use of equipment, in-*
8 *cluding software, developed pursuant*
9 *to the standards established under*
10 *subsection (a).*

11 *“(2) REQUIRED CATEGORIES.—In car-*
12 *rying out paragraph (1), the Secretary*
13 *specifically shall include the following*
14 *categories of first responder activities:*

15 *“(A) Regional planning.*

16 *“(B) Joint exercises.*

17 *“(C) Intelligence collection, anal-*
18 *ysis, and sharing.*

19 *“(D) Emergency notification of af-*
20 *ected populations.*

21 *“(E) Detection of biological, nu-*
22 *clear, radiological, and chemical*
23 *weapons of mass destruction.*

24 *“(F) Such other activities for*
25 *which the Secretary determines that*

1 *national voluntary consensus training*
2 *standards would be appropriate.*

3 “(3) **CONSISTENCY.**—*In carrying out*
4 *this subsection, the Secretary shall ensure*
5 *that such training standards are con-*
6 *sistent with the principles of emergency*
7 *preparedness for all hazards.*

8 “(c) **CONSULTATION WITH STANDARDS ORGA-**
9 **NIZATIONS.**—*In establishing national vol-*
10 *untary consensus standards for first re-*
11 *sponder equipment and training under this*
12 *section, the Secretary shall consult with rel-*
13 *evant public and private sector groups, includ-*
14 *ing—*

15 “(1) *the National Institute of Stand-*
16 *ards and Technology;*

17 “(2) *the National Fire Protection Asso-*
18 *ciation;*

19 “(3) *the National Association of Coun-*
20 *ty and City Health Officials;*

21 “(4) *the Association of State and Ter-*
22 *ritorial Health Officials;*

23 “(5) *the American National Standards*
24 *Institute;*

25 “(6) *the National Institute of Justice;*

1 ***“(7) the Inter-Agency Board for Equip-***
2 ***ment Standardization and Interoper-***
3 ***ability;***

4 ***“(8) the National Public Health Per-***
5 ***formance Standards Program;***

6 ***“(9) the National Institute for Occupa-***
7 ***tional Safety and Health;***

8 ***“(10) ASTM International;***

9 ***“(11) the International Safety Equip-***
10 ***ment Association;***

11 ***“(12) the Emergency Management Ac-***
12 ***creditation Program; and***

13 ***“(13) to the extent the Secretary con-***
14 ***siders appropriate, other national vol-***
15 ***untary consensus standards development***
16 ***organizations, other interested Federal,***
17 ***State, and local agencies, and other inter-***
18 ***ested persons.***

19 ***“(d) COORDINATION WITH SECRETARY OF***
20 ***HHS.—In establishing any national voluntary***
21 ***consensus standards under this section for***
22 ***first responder equipment or training that in-***
23 ***volve or relate to health professionals, includ-***
24 ***ing emergency medical professionals, the Sec-***
25 ***retary shall coordinate activities under this***

1 *section with the Secretary of Health and*
2 *Human Services.”.*

3 **(b) DEFINITION OF EMERGENCY RESPONSE**
4 **PROVIDERS.—***Paragraph (6) of section 2 of the*
5 *Homeland Security Act of 2002 (Public Law*
6 *107–296; 6 U.S.C. 101(6)) is amended by strik-*
7 *ing “includes” and all that follows and insert-*
8 *ing “includes Federal, State, and local govern-*
9 *mental and nongovernmental emergency pub-*
10 *lic safety, law enforcement, fire, emergency re-*
11 *sponse, emergency medical (including hospital*
12 *emergency facilities), and related personnel,*
13 *organizations, agencies, and authorities.”.*

14 **(c) TEMPORARY LIMITATIONS ON APPLICA-**
15 **TION.—**

16 **(1) 1-YEAR DELAY IN APPLICATION.—***The*
17 *following provisions of title XVIII of the*
18 *Homeland Security Act of 2002, as amend-*
19 *ed by subsection (a), shall not apply dur-*
20 *ing the 1-year period beginning on the*
21 *date of the enactment of this Act:*

22 **(A) Subsections (b), (c), and**
23 **(e)(4)(A) and (B) of section 1805.**

1 **(B) In section 1805(f)(3)(A), the**
 2 **phrase “, by enhancing the essential**
 3 **capabilities of the applicants,”.**

4 **(2) 2-YEAR DELAY IN APPLICATION.—The**
 5 **following provisions of title XVIII of the**
 6 **Homeland Security Act of 2002, as amend-**
 7 **ed by subsection (a), shall not apply dur-**
 8 **ing the 2-year period beginning on the**
 9 **date of the enactment of this Act:**

10 **(A) Subparagraphs (D) and (E) of sec-**
 11 **tion 1806(g)(5).**

12 **(B) Section 1806(i)(3).**

13 **SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVI-**
 14 **SORY SYSTEM.**

15 **(a) IN GENERAL.—Subtitle A of title II of the**
 16 **Homeland Security Act of 2002 (Public Law**
 17 **107–296; 6 U.S.C. 121 et seq.) is amended by**
 18 **adding at the end the following:**

19 **“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

20 **“(a) IN GENERAL.—The Secretary shall re-**
 21 **vise the Homeland Security Advisory System**
 22 **referred to in section 201(d)(7) to require that**
 23 **any designation of a threat level or other**
 24 **warning shall be accompanied by a designa-**

1 *tion of the geographic regions or economic sec-*
2 *tors to which the designation applies.*

3 “(b) *REPORTS.—The Secretary shall report*
4 *to the Congress annually by not later than De-*
5 *cember 31 each year regarding the geographic*
6 *region-specific warnings and economic sector-*
7 *specific warnings issued during the preceding*
8 *fiscal year under the Homeland Security Advi-*
9 *sory System referred to in section 201(d)(7),*
10 *and the bases for such warnings. The report*
11 *shall be submitted in unclassified form and*
12 *may, as necessary, include a classified*
13 *annex.”.*

14 “(b) *CLERICAL AMENDMENT.—The table of*
15 *contents in section 1(b) of the Homeland Secu-*
16 *rity Act of 2002 (6 U.S.C. 101 et seq.) is amend-*
17 *ed by inserting after the item relating to sec-*
18 *tion 202 the following:*

 “203. *Homeland Security Advisory System.”.*

19 *SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.*

20 *Section 102(f) of the Homeland Security*
21 *Act of 2002 (Public Law 107–296; 6 U.S.C.*
22 *112(f)) is amended by striking “and” after the*
23 *semicolon at the end of paragraph (6), by*
24 *striking the period at the end of paragraph (7)*

1 *and inserting “; and”, and by adding at the*
2 *end the following:*

3 “(8) *coordinating industry efforts,*
4 *with respect to functions of the Depart-*
5 *ment of Homeland Security, to identify*
6 *private sector resources and capabilities*
7 *that could be effective in supplementing*
8 *Federal, State, and local government*
9 *agency efforts to prevent or respond to a*
10 *terrorist attack.”.*

11 *SEC. 5006. SUPERSEDED PROVISION.*

12 *This subtitle supersedes section 1014 of*
13 *Public Law 107–56.*

14 *SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPER-*
15 *ABLE COMMUNICATIONS.*

16 ***(a) FINDING.—The Congress finds that—***

17 ***(1) many first responders working in***
18 ***the same jurisdiction or in different juris-***
19 ***dictions cannot effectively and efficiently***
20 ***communicate with one another; and***

21 ***(2) their inability to do so threatens***
22 ***the public’s safety and may result in un-***
23 ***necessary loss of lives and property.***

24 ***(b) SENSE OF CONGRESS.—It is the sense of***
25 ***the Congress that interoperable emergency***

1 *communications systems and radios should*
2 *continue to be deployed as soon as practicable*
3 *for use by the first responder community, and*
4 *that upgraded and new digital communica-*
5 *tions systems and new digital radios must*
6 *meet prevailing national, voluntary consensus*
7 *standards for interoperability.*

8 SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN
9 CORPS COUNCILS.

10 (a) *FINDING.—The Congress finds that Cit-*
11 *izen Corps councils help to enhance local cit-*
12 *izen participation in terrorism preparedness*
13 *by coordinating multiple Citizen Corps pro-*
14 *grams, developing community action plans,*
15 *assessing possible threats, and identifying*
16 *local resources.*

17 (b) *SENSE OF CONGRESS.—It is the sense of*
18 *the Congress that individual Citizen Corps*
19 *councils should seek to enhance the prepared-*
20 *ness and response capabilities of all organiza-*
21 *tions participating in the councils, including*
22 *by providing funding to as many of their par-*
23 *ticipating organizations as practicable to pro-*
24 *mote local terrorism preparedness programs.*

1 *SEC. 5009. STUDY REGARDING NATIONWIDE EMERGENCY*
2 *NOTIFICATION SYSTEM.*

3 *(a) STUDY.—The Secretary of Homeland Se-*
4 *curity, in consultation with the heads of other*
5 *appropriate Federal agencies and representa-*
6 *tives of providers and participants in the tele-*
7 *communications industry, shall conduct a*
8 *study to determine whether it is cost-effective,*
9 *efficient, and feasible to establish and imple-*
10 *ment an emergency telephonic alert notifica-*
11 *tion system that will—*

12 *(1) alert persons in the United States*
13 *of imminent or current hazardous events*
14 *caused by acts of terrorism; and*

15 *(2) provide information to individuals*
16 *regarding appropriate measures that may*
17 *be undertaken to alleviate or minimize*
18 *threats to their safety and welfare posed*
19 *by such events.*

20 *(b) TECHNOLOGIES TO CONSIDER.—In con-*
21 *ducting the study, the Secretary shall consider*
22 *the use of the telephone, wireless communica-*
23 *tions, and other existing communications net-*
24 *works to provide such notification.*

25 *(c) REPORT.—Not later than 9 months after*
26 *the date of the enactment of this Act, the Sec-*

1 *retary shall submit to the Congress a report re-*
 2 *garding the conclusions of the study.*

3 *SEC. 5010. REQUIRED COORDINATION.*

4 *The Secretary of Homeland Security shall*
 5 *ensure that there is effective and ongoing co-*
 6 *ordination of Federal efforts to prevent, pre-*
 7 *pare for, and respond to acts of terrorism and*
 8 *other major disasters and emergencies among*
 9 *the divisions of the Department of Homeland*
 10 *Security, including the Directorate of Emer-*
 11 *gency Preparedness and Response and the Of-*
 12 *fice for State and Local Government Coordina-*
 13 *tion and Preparedness.*

14 ***Subtitle B—Government***
 15 ***Reorganization Authority***

16 *SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMUNITY*
 17 *REORGANIZATION PLANS.*

18 (a) *REORGANIZATION PLANS.—Section*
 19 *903(a)(2) of title 5, United States Code, is*
 20 *amended to read as follows:*

21 *“(2) the abolition of all or a part of*
 22 *the functions of an agency;”.*

23 (b) *REPEAL OF LIMITATIONS.—Section 905 of*
 24 *title 5, United States Code, is amended to read*
 25 *as follows:*

1 ***“§ 905. Limitation on authority.***

2 ***“The authority to submit reorganization***
3 ***plans under this chapter is limited to the fol-***
4 ***lowing organizational units:***

5 ***“(1) The Office of the National Intel-***
6 ***ligence Director.***

7 ***“(2) The Central Intelligence Agency.***

8 ***“(3) The National Security Agency.***

9 ***“(4) The Defense Intelligence Agency.***

10 ***“(5) The National Geospatial-Intel-***
11 ***ligence Agency.***

12 ***“(6) The National Reconnaissance Of-***
13 ***fice.***

14 ***“(7) Other offices within the Depart-***
15 ***ment of Defense for the collection of spe-***
16 ***cialized national intelligence through re-***
17 ***connaissance programs.***

18 ***“(8) The intelligence elements of the***
19 ***Army, the Navy, the Air Force, the Marine***
20 ***Corps, the Federal Bureau of Investiga-***
21 ***tion, and the Department of Energy.***

22 ***“(9) The Bureau of Intelligence and***
23 ***Research of the Department of State.***

24 ***“(10) The Office of Intelligence Anal-***
25 ***ysis of the Department of Treasury.***

1 “(11) *The elements of the Department*
2 *of Homeland Security concerned with the*
3 *analysis of intelligence information, in-*
4 *cluding the Office of Intelligence of the*
5 *Coast Guard.*

6 “(12) *Such other elements of any other*
7 *department or agency as may be des-*
8 *ignated by the President, or designated*
9 *jointly by the National Intelligence Direc-*
10 *tor and the head of the department or*
11 *agency concerned, as an element of the in-*
12 *telligence community.”.*

13 (c) *REORGANIZATION PLANS.—Section 903(a)*
14 *of title 5, United States Code, is amended—*

15 (1) *in paragraph (5), by striking “or”*
16 *after the semicolon;*

17 (2) *in paragraph (6), by striking the*
18 *period and inserting “; or”; and*

19 (3) *by inserting after paragraph (6)*
20 *the following:*

21 “(7) *the creation of an agency.”.*

22 (d) *APPLICATION OF CHAPTER.—Chapter 9 of*
23 *title 5, United States Code, is amended by add-*
24 *ing at the end the following:*

1 *“§ 913. Application of chapter*

2 *“This chapter shall apply to any reorga-*
3 *nization plan transmitted to Congress in ac-*
4 *cordance with section 903(b) on or after the*
5 *date of enactment of this section.”.*

6 (e) *TECHNICAL AND CONFORMING AMEND-*
7 *MENTS.—*

8 (1) *TABLE OF SECTIONS.—The table of*
9 *sections for chapter 9 of title 5, United*
10 *States Code, is amended by adding after*
11 *the item relating to section 912 the fol-*
12 *lowing:*

“913. Application of chapter.”.

13 (2) *REFERENCES.—Chapter 9 of title 5,*
14 *United States Code, is amended—*

15 (A) *in section 908(1), by striking*
16 *“on or before December 31, 1984”; and*

17 (B) *in section 910, by striking*
18 *“Government Operations” each place*
19 *it appears and inserting “Government*
20 *Reform”.*

21 (3) *DATE MODIFICATION.—Section 909 of*
22 *title 5, United States Code, is amended in*
23 *the first sentence by striking “19” and in-*
24 *serting “20”.*

1 ***Subtitle C—Restructuring Relating***
2 ***to the Department of Homeland***
3 ***Security and Congressional***
4 ***Oversight***

5 ***SEC. 5025. RESPONSIBILITIES OF counternarcotics OFFICE.***

6 ***(a) AMENDMENT.—Section 878 of the Home-***
7 ***land Security Act of 2002 (6 U.S.C. 458) is***
8 ***amended to read as follows:***

9 ***“SEC. 878. OFFICE OF counternarcotics ENFORCEMENT.***

10 ***“(a) OFFICE.—There shall be in the Depart-***
11 ***ment an Office of counternarcotics Enforce-***
12 ***ment, which shall be headed by a Director ap-***
13 ***pointed by the President, by and with the ad-***
14 ***vice and consent of the Senate.***

15 ***“(b) ASSIGNMENT OF PERSONNEL.—(1) The***
16 ***Secretary shall assign to the Office permanent***
17 ***staff and other appropriate personnel detailed***
18 ***from other subdivisions of the Department to***
19 ***carry out responsibilities under this section.***

20 ***“(2) The Secretary shall designate senior***
21 ***employees from each appropriate subdivision***
22 ***of the Department that has significant***
23 ***counternarcotics responsibilities to act as a li-***
24 ***aision between that subdivision and the Office***
25 ***of counternarcotics Enforcement.***

1 “(c) *LIMITATION ON CONCURRENT EMPLOY-*
2 *MENT.—Except as provided in subsection (d),*
3 *the Director of the Office of counternarcotics*
4 *Enforcement shall not be employed by, as-*
5 *signed to, or serve as the head of, any other*
6 *branch of the Federal Government, any State*
7 *or local government, or any subdivision of the*
8 *Department other than the Office of counter-*
9 *narcotics Enforcement.*

10 “(d) *ELIGIBILITY TO SERVE AS THE UNITED*
11 *STATES INTERDICTION COORDINATOR.—The Di-*
12 *rector of the Office of counternarcotics En-*
13 *forcement may be appointed as the United*
14 *States Interdiction Coordinator by the Direc-*
15 *tor of the Office of National Drug Control Pol-*
16 *icy, and shall be the only person at the Depart-*
17 *ment eligible to be so appointed.*

18 “(e) *RESPONSIBILITIES.—The Secretary*
19 *shall direct the Director of the Office of*
20 *counternarcotics Enforcement—*

21 “(1) *to coordinate policy and oper-*
22 *ations within the Department, between the*
23 *Department and other Federal depart-*
24 *ments and agencies, and between the De-*
25 *partment and State and local agencies*

1 *with respect to stopping the entry of ille-*
2 *gal drugs into the United States;*

3 *“(2) to ensure the adequacy of re-*
4 *sources within the Department for stop-*
5 *ping the entry of illegal drugs into the*
6 *United States;*

7 *“(3) to recommend the appropriate fi-*
8 *nancial and personnel resources nec-*
9 *essary to help the Department better ful-*
10 *fill its responsibility to stop the entry of il-*
11 *legal drugs into the United States;*

12 *“(4) to track and sever connections be-*
13 *tween illegal drug trafficking and ter-*
14 *rorism; and*

15 *“(5) to be a representative of the De-*
16 *partment on all task forces, committees,*
17 *or other entities whose purpose is to co-*
18 *ordinate the counternarcotics enforce-*
19 *ment activities of the Department and*
20 *other Federal, state or local agencies.*

21 *“(f) REPORTS TO CONGRESS.—*

22 *“(1) ANNUAL BUDGET REVIEW.—The Di-*
23 *rector of the Office of counternarcotics*
24 *Enforcement shall, not later than 30 days*
25 *after the submission by the President to*

1 *Congress of any request for expenditures*
2 *for the Department, submit to the Commit-*
3 *tees on Appropriations and the author-*
4 *izing committees of jurisdiction of the*
5 *House of Representatives and the Senate a*
6 *review and evaluation of such request.*
7 *The review and evaluation shall—*

8 *“(A) identify any request or sub-*
9 *part of any request that affects or may*
10 *affect the counternarcotics activities*
11 *of the Department or any of its sub-*
12 *divisions, or that affects the ability of*
13 *the Department or any subdivision of*
14 *the Department to meet its responsi-*
15 *bility to stop the entry of illegal drugs*
16 *into the United States;*

17 *“(B) describe with particularity*
18 *how such requested funds would be or*
19 *could be expended in furtherance of*
20 *counternarcotics activities; and*

21 *“(C) compare such requests with*
22 *requests for expenditures and*
23 *amounts appropriated by Congress in*
24 *the previous fiscal year.*

1 **“(2) EVALUATION OF COUNTERNARCOTICS**
2 **ACTIVITIES.—***The Director of the Office of*
3 *counternarcotics Enforcement shall, not*
4 *later than February 1 of each year, submit*
5 *to the Committees on Appropriations and*
6 *the authorizing committees of jurisdiction*
7 *of the House of Representatives and the*
8 *Senate a review and evaluation of the*
9 *counternarcotics activities of the Depart-*
10 *ment for the previous fiscal year. The re-*
11 *view and evaluation shall—*

12 **“(A) describe the counternarcotics**
13 *activities of the Department and each*
14 *subdivision of the Department (wheth-*
15 *er individually or in cooperation with*
16 *other subdivisions of the Department,*
17 *or in cooperation with other branches*
18 *of the Federal Government or with*
19 *State or local agencies), including the*
20 *methods, procedures, and systems (in-*
21 *cluding computer systems) for col-*
22 *lecting, analyzing, sharing, and dis-*
23 *seminating information concerning*
24 *narcotics activity within the Depart-*
25 *ment and between the Department*

1 *and other Federal, State, and local*
2 *agencies;*

3 *“(B) describe the results of those*
4 *activities, using quantifiable data*
5 *whenever possible;*

6 *“(C) state whether those activities*
7 *were sufficient to meet the responsi-*
8 *bility of the Department to stop the*
9 *entry of illegal drugs into the United*
10 *States, including a description of the*
11 *performance measures of effectiveness*
12 *that were used in making that deter-*
13 *mination; and*

14 *“(D) recommend, where appro-*
15 *priate, changes to those activities to*
16 *improve the performance of the De-*
17 *partment in meeting its responsibility*
18 *to stop the entry of illegal drugs into*
19 *the United States.*

20 **“(3) CLASSIFIED OR LAW ENFORCEMENT**
21 **SENSITIVE INFORMATION.—Any content of a**
22 **review and evaluation described in the re-**
23 **ports required in this subsection that in-**
24 **volves information classified under cri-**
25 **teria established by an Executive order, or**

1 *whose public disclosure, as determined by*
2 *the Secretary, would be detrimental to the*
3 *law enforcement or national security ac-*
4 *tivities of the Department or any other*
5 *Federal, State, or local agency, shall be*
6 *presented to Congress separately from the*
7 *rest of the review and evaluation.”.*

8 **(b) CONFORMING AMENDMENT.—***Section*
9 *103(a) of the Homeland Security Act of 2002 (6*
10 *U.S.C. 113(a)) is amended—*

11 *(1) by redesignating paragraphs (8)*
12 *and (9) as paragraphs (9) and (10), re-*
13 *spectively; and*

14 *(2) by inserting after paragraph (7)*
15 *the following new paragraph (8):*

16 *“(8) A Director of the Office of*
17 *counternarcotics Enforcement.”.*

18 **(c) AUTHORIZATION OF APPROPRIATIONS.—***Of*
19 *the amounts appropriated for the Department*
20 *of Homeland Security for Departmental man-*
21 *agement and operations for fiscal year 2005,*
22 *there is authorized up to \$6,000,000 to carry*
23 *out section 878 of the Department of Homeland*
24 *Security Act of 2002 (as amended by this sec-*
25 *tion).*

1 *SEC. 5026. USE OF counternarcotics ENFORCEMENT ACTIVI-*
2 *TIES IN CERTAIN EMPLOYEE PERFORMANCE*
3 *APPRAISALS.*

4 *(a) IN GENERAL.—Subtitle E of title VIII of*
5 *the Homeland Security Act of 2002 (6 U.S.C.*
6 *411 and following) is amended by adding at*
7 *the end the following:*

8 *“SEC. 843. USE OF counternarcotics ENFORCEMENT ACTIVI-*
9 *TIES IN CERTAIN EMPLOYEE PERFORMANCE*
10 *APPRAISALS.*

11 *“(a) IN GENERAL.—Each subdivision of the*
12 *Department that is a National Drug Control*
13 *Program Agency shall include as one of the*
14 *criteria in its performance appraisal system,*
15 *for each employee directly or indirectly in-*
16 *volved in the enforcement of Federal, State, or*
17 *local narcotics laws, the performance of that*
18 *employee with respect to the enforcement of*
19 *Federal, State, or local narcotics laws, relying*
20 *to the greatest extent practicable on objective*
21 *performance measures, including—*

22 *“(1) the contribution of that employee*
23 *to seizures of narcotics and arrests of vio-*
24 *lators of Federal, State, or local narcotics*
25 *laws; and*

1 “(2) *the degree to which that employee*
2 *cooperated with or contributed to the ef-*
3 *forts of other employees, either within the*
4 *Department or other Federal, State, or*
5 *local agencies, in counternarcotics en-*
6 *forcement.*

7 “(b) **DEFINITIONS.**—*For purposes of this sec-*
8 *tion—*

9 “(1) *the term ‘National Drug Control*
10 *Program Agency’ means—*

11 “(A) *a National Drug Control Pro-*
12 *gram Agency, as defined in section*
13 *702(7) of the Office of National Drug*
14 *Control Policy Reauthorization Act of*
15 *1998 (as last in effect); and*

16 “(B) *any subdivision of the De-*
17 *partment that has a significant*
18 *counternarcotics responsibility, as de-*
19 *termined by—*

20 “(i) *the counternarcotics offi-*
21 *cer, appointed under section 878;*
22 *or*

23 “(ii) *if applicable, the counter-*
24 *narcotics officer’s successor in*

1 *function (as determined by the*
 2 *Secretary); and*

3 “(2) *the term ‘performance appraisal*
 4 *system’ means a system under which peri-*
 5 *odic appraisals of job performance of em-*
 6 *ployees are made, whether under chapter*
 7 *43 of title 5, United States Code, or other-*
 8 *wise.’.*”.

9 **(b) CLERICAL AMENDMENT.**—*The table of*
 10 *contents for the Homeland Security Act of 2002*
 11 *is amended by inserting after the item relating*
 12 *to section 842 the following:*

“Sec. 843. Use of counternarcotics enforcement activities in cer-
 tain employee performance appraisals.”.

13 **SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES ON**
 14 **ADDRESSING HOMELAND SECURITY FOR THE**
 15 **AMERICAN PEOPLE.**

16 **(a) FINDINGS.**—*The House of Representa-*
 17 *tives finds that—*

18 **(1) the House of Representatives cre-**
 19 **ated a Select Committee on Homeland Se-**
 20 **curity at the start of the 108th Congress to**
 21 **provide for vigorous congressional over-**
 22 **sight for the implementation and oper-**
 23 **ation of the Department of Homeland Se-**
 24 **curity;**

1 ***(2) the House of Representatives also***
2 ***charged the Select Committee on Home-***
3 ***land Security, including its Subcommittee***
4 ***on Rules, with undertaking a thorough***
5 ***and complete study of the operation and***
6 ***implementation of the rules of the House,***
7 ***including the rule governing committee***
8 ***jurisdiction, with respect to the issue of***
9 ***homeland security and to make their rec-***
10 ***ommendations to the Committee on Rules;***

11 ***(3) on February 11, 2003, the Com-***
12 ***mittee on Appropriations of the House of***
13 ***Representatives created a new Sub-***
14 ***committee on Homeland Security with ju-***
15 ***risdiction over the Transportation Secu-***
16 ***rity Administration, the Coast Guard, and***
17 ***other entities within the Department of***
18 ***Homeland Security to help address the in-***
19 ***tegration of the Department of Homeland***
20 ***Security's 22 legacy agencies; and***

21 ***(4) during the 108th Congress, the***
22 ***House of Representatives has taken sev-***
23 ***eral steps to help ensure its continuity in***
24 ***the event of a terrorist attack, including—***

1 ***(A) adopting H.R. 2844, the Con-***
2 ***tinuity of Representation Act, a bill to***
3 ***require States to hold expedited spe-***
4 ***cial elections to fill vacancies in the***
5 ***House of Representatives not later***
6 ***than 45 days after the vacancy is an-***
7 ***nounced by the Speaker in extraor-***
8 ***dinary circumstances;***

9 ***(B) granting authority for joint-***
10 ***leadership recalls from a period of ad-***
11 ***jourment to an alternate place;***

12 ***(C) allowing for anticipatory con-***
13 ***sent with the Senate to assemble in an***
14 ***alternate place;***

15 ***(D) establishing the requirement***
16 ***that the Speaker submit to the Clerk a***
17 ***list of Members in the order in which***
18 ***each shall act as Speaker pro tempore***
19 ***in the case of a vacancy in the Office***
20 ***of Speaker (including physical inabil-***
21 ***ity of the Speaker to discharge his du-***
22 ***ties) until the election of a Speaker or***
23 ***a Speaker pro tempore, exercising***
24 ***such authorities of the Speaker as***

1 *may be necessary and appropriate to*
2 *that end;*

3 *(E) granting authority for the*
4 *Speaker to declare an emergency re-*
5 *cess of the House subject to the call of*
6 *the Chair when notified of an immi-*
7 *nent threat to the safety of the House;*

8 *(F) granting authority for the*
9 *Speaker, during any recess or ad-*
10 *jourment of not more than three*
11 *days, in consultation with the Minor-*
12 *ity Leader, to postpone the time for re-*
13 *convening or to reconvene before the*
14 *time previously appointed solely to de-*
15 *clare the House in recess, in each case*
16 *within the constitutional three-day*
17 *limit;*

18 *(G) establishing the authority for*
19 *the Speaker to convene the House in*
20 *an alternate place within the seat of*
21 *Government; and*

22 *(H) codifying the long-standing*
23 *practice that the death, resignation,*
24 *expulsion, disqualification, or re-*
25 *moval of a Member results in an ad-*

1 *justment of the quorum of the House,*
2 *which the Speaker shall announce to*
3 *the House and which shall not be sub-*
4 *ject to appeal.*

5 **(b) SENSE OF THE HOUSE.**—*It is the sense of*
6 *the House of Representatives that the Com-*
7 *mittee on Rules should act upon the rec-*
8 *ommendations provided by the Select Com-*
9 *mittee on Homeland Security, and other com-*
10 *mittees of existing jurisdiction, regarding the*
11 *jurisdiction over proposed legislation, mes-*
12 *sages, petitions, memorials and other matters*
13 *relating to homeland security prior to or at the*
14 *start of the 109th Congress.*

15 **Subtitle D—Improvements to**
16 **Information Security**

17 **SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS**
18 **TO ENHANCE AGENCY PLANNING FOR INFOR-**
19 **MATION SECURITY NEEDS.**

20 **Chapter 113 of title 40, United States Code,**
21 **is amended—**

22 **(1) in section 11302(b), by inserting**
23 **“security,” after “use,”;**

(2) *in section 11302(c), by inserting “, including information security risks,” after “risks” both places it appears;*

(3) *in section 11312(b)(1), by striking “information technology investments” and inserting “investments in information technology (including information security needs)”;* and

(4) *in section 11315(b)(2), by inserting “, secure,” after “sound”.*

Subtitle E—Personnel Management Improvements

CHAPTER 1—APPOINTMENTS PROCESS REFORM

SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSITIONS.

(a) ***DEFINITION OF NATIONAL SECURITY POSITION.—For purposes of this section, the term “national security position” shall include—***

(1) *those positions that involve activities of the United States Government that are concerned with the protection of the Nation from foreign aggression, terrorism, or espionage, including development of defense plans or policies, intelligence or*

1 *counterintelligence activities, and related*
2 *activities concerned with the preservation*
3 *of military strength of the United States*
4 *and protection of the homeland; and*

5 *(2) positions that require regular use*
6 *of, or access to, classified information.*

7 *(b) PUBLICATION IN THE FEDERAL REG-*
8 *ISTER.—Not later than 60 days after the effec-*
9 *tive date of this section, the Director of the Of-*
10 *fice of Personnel Management shall publish in*
11 *the Federal Register a list of offices that con-*
12 *stitute national security positions under sec-*
13 *tion (a) for which Senate confirmation is re-*
14 *quired by law, and the Director shall revise*
15 *such list from time to time as appropriate.*

16 *(c) PRESIDENTIAL APPOINTMENTS.—(1) With*
17 *respect to appointment of individuals to of-*
18 *fices identified under section (b) and listed in*
19 *sections 5315 or 5316 of title 5, United States*
20 *Code, which shall arise after the publication*
21 *of the list required by section (b), and notwith-*
22 *standing any other provision of law, the advice*
23 *and consent of the Senate shall not be re-*
24 *quired, but rather such appointment shall be*
25 *made by the President alone.*

1 ***(2) With respect to appointment of individ-***
2 ***uals to offices identified under section (b) and***
3 ***listed in sections 5313 or 5314 of title 5, United***
4 ***States Code, which shall arise after the publi-***
5 ***cation of the list required by section (b), and***
6 ***notwithstanding any other provision of law,***
7 ***the advice and consent of the Senate shall be***
8 ***required, except that if 30 legislative days***
9 ***shall have expired from the date on which a***
10 ***nomination is submitted to the Senate without***
11 ***a confirmation vote occurring in the Senate,***
12 ***such appointment shall be made by the Presi-***
13 ***dent alone.***

14 ***(3) For the purposes of this subsection, the***
15 ***term “legislative day” means a day on which***
16 ***the Senate is in session.***

17 ***SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.***

18 ***Subsections (a) and (b) of section 3349a of***
19 ***title 5, United States Code, are amended to***
20 ***read as follows:***

21 ***“(a) As used in this section—***

22 ***“(1) the term ‘inauguration day’***
23 ***means the date on which any person***
24 ***swears or affirms the oath of office as***
25 ***President; and***

1 “(2) *the term ‘specified national secu-*
2 *rity position’ shall mean not more than 20*
3 *positions requiring Senate confirmation,*
4 *not to include more than 3 heads of Exec-*
5 *utive Departments, which are designated*
6 *by the President on or after an inaugura-*
7 *tion day as positions for which the duties*
8 *involve substantial responsibility for na-*
9 *tional security.*

10 “(b) *With respect to any vacancy that exists*
11 *during the 60-day period beginning on an in-*
12 *auguration day, except where the person*
13 *swearing or affirming the oath of office was*
14 *the President on the date preceding the date*
15 *of swearing or affirming such oath of office,*
16 *the 210-day period under section 3346 or 3348*
17 *shall be deemed to begin on the later of the*
18 *date occurring—*

19 “(1) *90 days after such transitional in-*
20 *auguration day; or*

21 “(2) *90 days after the date on which*
22 *the vacancy occurs.*

23 “(c) *With respect to any vacancy in any*
24 *specified national security position that exists*
25 *during the 60-day period beginning on an in-*

1 *auguration day, the requirements of subpara-*
 2 *graphs (A) and (B) of section 3345(a)(3) shall*
 3 *not apply.”.*

4 *SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-*
 5 *TELLIGENCE COMMUNITY.*

6 *(a) IN GENERAL.—The Ethics in Govern-*
 7 *ment Act of 1978 (5 U.S.C. App.) is amended by*
 8 *inserting before title IV the following:*

9 ***“TITLE III—INTELLIGENCE PER-***
 10 ***SONNEL FINANCIAL DISCLO-***
 11 ***SURE REQUIREMENTS***

12 ***“SEC. 301. PERSONS REQUIRED TO FILE.***

13 ***“(a) Within 30 days of assuming the posi-***
 14 ***tion of an officer or employee described in sub-***
 15 ***section (e), an individual shall file a report***
 16 ***containing the information described in sec-***
 17 ***tion 302(b) unless the individual has left an-***
 18 ***other position described in subsection (e) with-***
 19 ***in 30 days prior to assuming such new position***
 20 ***or has already filed a report under this title***
 21 ***with respect to nomination for the new posi-***
 22 ***tion or as a candidate for the position.***

23 ***“(b)(1) Within 5 days of the transmittal by***
 24 ***the President to the Senate of the nomination***
 25 ***of an individual to a position in the executive***

1 *branch, appointment to which requires the ad-*
2 *vice and consent of the Senate, such indi-*
3 *vidual shall file a report containing the infor-*
4 *mation described in section 302(b). Such indi-*
5 *vidual shall, not later than the date of the first*
6 *hearing to consider the nomination of such in-*
7 *dividual, make current the report filed pursu-*
8 *ant to this paragraph by filing the informa-*
9 *tion required by section 302(a)(1)(A) with re-*
10 *spect to income and honoraria received as of*
11 *the date which occurs 5 days before the date*
12 *of such hearing. Nothing in this Act shall pre-*
13 *vent any congressional committee from re-*
14 *questing, as a condition of confirmation, any*
15 *additional financial information from any*
16 *Presidential nominee whose nomination has*
17 *been referred to that committee.*

18 “(2) *An individual whom the President or*
19 *the President-elect has publicly announced he*
20 *intends to nominate to a position may file the*
21 *report required by paragraph (1) at any time*
22 *after that public announcement, but not later*
23 *than is required under the first sentence of*
24 *such paragraph.*

1 “(c) *Any individual who is an officer or*
2 *employee described in subsection (e) during*
3 *any calendar year and performs the duties of*
4 *his position or office for a period in excess of*
5 *60 days in that calendar year shall file on or*
6 *before May 15 of the succeeding year a report*
7 *containing the information described in sec-*
8 *tion 302(a).*

9 “(d) *Any individual who occupies a posi-*
10 *tion described in subsection (e) shall, on or be-*
11 *fore the 30th day after termination of employ-*
12 *ment in such position, file a report containing*
13 *the information described in section 302(a)*
14 *covering the preceding calendar year if the re-*
15 *port required by subsection (c) has not been*
16 *filed and covering the portion of the calendar*
17 *year in which such termination occurs up to*
18 *the date the individual left such office or posi-*
19 *tion, unless such individual has accepted em-*
20 *ployment in or takes the oath of office for an-*
21 *other position described in subsection (e) or*
22 *section 101(f).*

23 “(e) *The officers and employees referred to*
24 *in subsections (a), (c), and (d) are those em-*
25 *ployed in or under—*

1 “(1) *the Office of the National Intel-*
2 *ligence Director; or*

3 “(2) *an element of the intelligence*
4 *community, as defined in section 3(4) of*
5 *the National Security Act of 1947 (50*
6 *U.S.C. 401a(4)).*

7 “(f)(1) *Reasonable extensions of time for*
8 *filing any report may be granted under proce-*
9 *dures prescribed by the Office of Government*
10 *Ethics, but the total of such extensions shall*
11 *not exceed 90 days.*

12 “(2)(A) *In the case of an individual who is*
13 *serving in the Armed Forces, or serving in sup-*
14 *port of the Armed Forces, in an area while that*
15 *area is designated by the President by Execu-*
16 *tive order as a combat zone for purposes of sec-*
17 *tion 112 of the Internal Revenue Code of 1986,*
18 *the date for the filing of any report shall be*
19 *extended so that the date is 180 days after the*
20 *later of—*

21 “(i) *the last day of the individual’s*
22 *service in such area during such des-*
23 *ignated period; or*

24 “(ii) *the last day of the individual’s*
25 *hospitalization as a result of injury re-*

1 *ceived or disease contracted while serving*
2 *in such area.*

3 *“(B) The Office of Government Ethics, in*
4 *consultation with the Secretary of Defense,*
5 *may prescribe procedures under this para-*
6 *graph.*

7 *“(g) The Director of the Office of Govern-*
8 *ment Ethics may grant a publicly available re-*
9 *quest for a waiver of any reporting require-*
10 *ment under this title with respect to an indi-*
11 *vidual if the Director determines that—*

12 *“(1) such individual is not a full-time*
13 *employee of the Government;*

14 *“(2) such individual is able to provide*
15 *special services needed by the Govern-*
16 *ment;*

17 *“(3) it is unlikely that such individ-*
18 *ual’s outside employment or financial in-*
19 *terests will create a conflict of interest;*
20 *and*

21 *“(4) public financial disclosure by*
22 *such individual is not necessary in the*
23 *circumstances.*

24 *“(h)(1) The Director of the Office of Gov-*
25 *ernment Ethics may establish procedures*

1 *under which an incoming individual can take*
2 *actions to avoid conflicts of interest while in*
3 *office if the individual has holdings or other*
4 *financial interests that raise conflict con-*
5 *cerns.*

6 “(2) *The actions referenced in paragraph*
7 *(1) may include, but are not limited to, signed*
8 *agreements with the individual’s employing*
9 *agency, the establishment of blind trusts, or re-*
10 *quirements for divesting interests or holdings*
11 *while in office.*

12 *“SEC. 302. CONTENTS OF REPORTS.*

13 “(a) *Each report filed pursuant to section*
14 *301 (c) and (d) shall include a full and com-*
15 *plete statement with respect to the following:*

16 “(1)(A) *The source, description, and*
17 *category of value of income (other than*
18 *income referred to in subparagraph (B))*
19 *from any source (other than from current*
20 *employment by the United States Govern-*
21 *ment), received during the preceding cal-*
22 *endar year, aggregating more than \$500*
23 *in value, except that honoraria received*
24 *during Government service by an officer*
25 *or employee shall include, in addition to*

1 *the source, the exact amount and the date*
2 *it was received.*

3 *“(B) The source and description of in-*
4 *vestment income which may include but is*
5 *not limited to dividends, rents, interest,*
6 *and capital gains, received during the*
7 *preceding calendar year which exceeds*
8 *\$500 in amount or value.*

9 *“(C) The categories for reporting the*
10 *amount for income covered in subpara-*
11 *graphs (A) and (B) are—*

12 *“(i) greater than \$500 but not*
13 *more than \$20,000;*

14 *“(ii) greater than \$20,000 but not*
15 *more than \$100,000;*

16 *“(iii) greater than \$100,000 but*
17 *not more than \$1,000,000;*

18 *“(iv) greater than \$1,000,000 but*
19 *not more than \$2,500,000; and*

20 *“(v) greater than \$2,500,000.*

21 *“(2)(A) The identity of the source, a*
22 *brief description, and the value of all gifts*
23 *aggregating more than the minimal value*
24 *as established by section 7342(a)(5) of title*
25 *5, United States Code, or \$250, whichever*

1 *is greater, received from any source other*
2 *than a relative of the reporting individual*
3 *during the preceding calendar year, ex-*
4 *cept that any food, lodging, or entertain-*
5 *ment received as personal hospitality of*
6 *an individual need not be reported, and*
7 *any gift with a fair market value of \$100*
8 *or less, as adjusted at the same time and*
9 *by the same percentage as the minimal*
10 *value is adjusted, need not be aggregated*
11 *for purposes of this subparagraph.*

12 *“(B) The identity of the source and a*
13 *brief description (including dates of trav-*
14 *el and nature of expenses provided) of re-*
15 *imbursements received from any source*
16 *aggregating more than the minimal value*
17 *as established by section 7342(a)(5) of title*
18 *5, United States Code, or \$250, whichever*
19 *is greater and received during the pre-*
20 *ceding calendar year.*

21 *“(3) The identity and category of value*
22 *of any interest in property held during the*
23 *preceding calendar year in a trade or*
24 *business, or for investment or the produc-*
25 *tion of income, which has a fair market*

1 *value which exceeds \$5,000 as of the close*
2 *of the preceding calendar year, excluding*
3 *any personal liability owed to the report-*
4 *ing individual by a spouse, or by a parent,*
5 *brother, sister, or child of the reporting*
6 *individual or of the reporting individual's*
7 *spouse, or any deposit accounts aggre-*
8 *gating \$100,000 or less in a financial in-*
9 *stitution, or any Federal Government se-*
10 *curities aggregating \$100,000 or less.*

11 *“(4) The identity and category of value*
12 *of the total liabilities owed to any creditor*
13 *other than a spouse, or a parent, brother,*
14 *sister, or child of the reporting individual*
15 *or of the reporting individual's spouse*
16 *which exceed \$20,000 at any time during*
17 *the preceding calendar year, excluding—*

18 *“(A) any mortgage secured by real*
19 *property which is a personal residence*
20 *of the reporting individual or his*
21 *spouse; and*

22 *“(B) any loan secured by a per-*
23 *sonal motor vehicle, household fur-*
24 *niture, or appliances, which loan does*

1 *not exceed the purchase price of the*
2 *item which secures it.*

3 *With respect to revolving charge accounts,*
4 *only those with an outstanding liability*
5 *which exceeds \$20,000 as of the close of*
6 *the preceding calendar year need be re-*
7 *ported under this paragraph. Notwith-*
8 *standing the preceding sentence, individ-*
9 *uals required to file pursuant to section*
10 *301(b) shall also report the aggregate sum*
11 *of the outstanding balances of all revolv-*
12 *ing charge accounts as of any date that is*
13 *within 30 days of the date of filing if the*
14 *aggregate sum of those balances exceeds*
15 *\$20,000.*

16 “(5) *Except as provided in this para-*
17 *graph, a brief description of any real*
18 *property, other than property used solely*
19 *as a personal residence of the reporting*
20 *individual or his spouse, or stocks, bonds,*
21 *commodities futures, and other forms of*
22 *securities, if—*

23 “(A) *purchased, sold, or ex-*
24 *changed during the preceding cal-*
25 *endar year;*

1 “(B) *the value of the transaction*
2 *exceeded \$5,000; and*

3 “(C) *the property or security is not*
4 *already required to be reported as a*
5 *source of income pursuant to para-*
6 *graph (1)(B) or as an asset pursuant*
7 *to paragraph (3).*

8 “(6)(A) *The identity of all positions*
9 *held on or before the date of filing during*
10 *the current calendar year (and, for the*
11 *first report filed by an individual, during*
12 *the 1-year period preceding such calendar*
13 *year) as an officer, director, trustee, part-*
14 *ner, proprietor, representative, employee,*
15 *or consultant of any corporation, com-*
16 *pany, firm, partnership, or other business*
17 *enterprise, any nonprofit organization,*
18 *any labor organization, or any edu-*
19 *cational or other institution other than*
20 *the United States Government. This sub-*
21 *paragraph shall not require the reporting*
22 *of positions held in any religious, social,*
23 *fraternal, or political entity and positions*
24 *solely of an honorary nature.*

1 “(B) *If any person, other than a per-*
2 *son reported as a source of income under*
3 *paragraph (1)(A) or the United States*
4 *Government, paid a nonelected reporting*
5 *individual compensation in excess of*
6 *\$25,000 in the calendar year in which, or*
7 *the calendar year prior to the calendar*
8 *year in which, the individual files his*
9 *first report under this title, the individual*
10 *shall include in the report—*

11 “(i) *the identity of each source of*
12 *such compensation; and*

13 “(ii) *a brief description of the na-*
14 *ture of the duties performed or serv-*
15 *ices rendered by the reporting indi-*
16 *vidual for each such source.*

17 *The preceding sentence shall not require*
18 *any individual to include in such report*
19 *any information which is considered con-*
20 *fidential as a result of a privileged rela-*
21 *tionship, established by law, between such*
22 *individual and any person or any infor-*
23 *mation which the person for whom the*
24 *services are provided has a reasonable ex-*
25 *pectation of privacy, nor shall it require*

1 *an individual to report any information*
2 *with respect to any person for whom serv-*
3 *ices were provided by any firm or associa-*
4 *tion of which such individual was a mem-*
5 *ber, partner, or employee unless such indi-*
6 *vidual was directly involved in the provi-*
7 *sion of such services.*

8 *“(7) A description of parties to and*
9 *terms of any agreement or arrangement*
10 *with respect to (A) future employment; (B)*
11 *a leave of absence during the period of the*
12 *reporting individual’s Government serv-*
13 *ice; (C) continuation of payments by a*
14 *former employer other than the United*
15 *States Government; and (D) continuing*
16 *participation in an employee welfare or*
17 *benefit plan maintained by a former em-*
18 *ployer. The description of any formal*
19 *agreement for future employment shall in-*
20 *clude the date on which that agreement*
21 *was entered into.*

22 *“(8) The category of the total cash*
23 *value of any interest of the reporting indi-*
24 *vidual in a qualified blind trust.*

1 ***“(b)(1) Each report filed pursuant to sub-***
2 ***sections (a) and (b) of section 301 shall include***
3 ***a full and complete statement with respect to***
4 ***the information required by—***

5 ***“(A) paragraphs (1) and (6) of sub-***
6 ***section (a) for the year of filing and the***
7 ***preceding calendar year,***

8 ***“(B) paragraphs (3) and (4) of sub-***
9 ***section (a) as of the date specified in the***
10 ***report but which is less than 31 days be-***
11 ***fore the filing date, and***

12 ***“(C) paragraph (7) of subsection (a)***
13 ***as of the filing date but for periods de-***
14 ***scribed in such paragraph.***

15 ***“(2)(A) In lieu of filling out 1 or more***
16 ***schedules of a financial disclosure form, an***
17 ***individual may supply the required informa-***
18 ***tion in an alternative format, pursuant to ei-***
19 ***ther rules adopted by the Office of Government***
20 ***Ethics or pursuant to a specific written deter-***
21 ***mination by the Director of the Office of Gov-***
22 ***ernment Ethics for a reporting individual.***

23 ***“(B) In lieu of indicating the category of***
24 ***amount or value of any item contained in any***
25 ***report filed under this title, a reporting indi-***

1 *vidual may indicate the exact dollar amount*
2 *of such item.*

3 “(c)(1) *In the case of any individual re-*
4 *ferred to in section 301(c), the Office of Govern-*
5 *ment Ethics may by regulation require a re-*
6 *porting period to include any period in which*
7 *the individual served as an officer or employee*
8 *described in section 301(e) and the period*
9 *would not otherwise be covered by any public*
10 *report filed pursuant to this title.*

11 “(2) *In the case of any individual referred*
12 *to in section 301(d), any reference to the pre-*
13 *ceding calendar year shall be considered also*
14 *to include that part of the calendar year of fil-*
15 *ing up to the date of the termination of employ-*
16 *ment.*

17 “(d)(1) *The categories for reporting the*
18 *amount or value of the items covered in sub-*
19 *section (a)(3) are—*

20 “(A) *greater than \$5,000 but not more*
21 *than \$15,000;*

22 “(B) *greater than \$15,000 but not more*
23 *than \$100,000;*

24 “(C) *greater than \$100,000 but not*
25 *more than \$1,000,000;*

1 “(D) *greater than \$1,000,000 but not*
2 *more than \$2,500,000; and*

3 “(E) *greater than \$2,500,000.*

4 “(2) *For the purposes of subsection (a)(3)*
5 *if the current value of an interest in real prop-*
6 *erty (or an interest in a real estate partner-*
7 *ship) is not ascertainable without an ap-*
8 *praisal, an individual may list (A) the date of*
9 *purchase and the purchase price of the inter-*
10 *est in the real property, or (B) the assessed*
11 *value of the real property for tax purposes, ad-*
12 *justed to reflect the market value of the prop-*
13 *erty used for the assessment if the assessed*
14 *value is computed at less than 100 percent of*
15 *such market value, but such individual shall*
16 *include in his report a full and complete de-*
17 *scription of the method used to determine such*
18 *assessed value, instead of specifying a cat-*
19 *egory of value pursuant to paragraph (1). If*
20 *the current value of any other item required to*
21 *be reported under subsection (a)(3) is not as-*
22 *certainable without an appraisal, such indi-*
23 *vidual may list the book value of a corporation*
24 *whose stock is not publicly traded, the net*
25 *worth of a business partnership, the equity*

1 *value of an individually owned business, or*
2 *with respect to other holdings, any recognized*
3 *indication of value, but such individual shall*
4 *include in his report a full and complete de-*
5 *scription of the method used in determining*
6 *such value. In lieu of any value referred to in*
7 *the preceding sentence, an individual may list*
8 *the assessed value of the item for tax purposes,*
9 *adjusted to reflect the market value of the item*
10 *used for the assessment if the assessed value*
11 *is computed at less than 100 percent of such*
12 *market value, but a full and complete descrip-*
13 *tion of the method used in determining such*
14 *assessed value shall be included in the report.*

15 “(3) *The categories for reporting the*
16 *amount or value of the items covered in para-*
17 *graphs (4) and (8) of subsection (a) are—*

18 “(A) *greater than \$20,000 but not more*
19 *than \$100,000;*

20 “(B) *greater than \$100,000 but not*
21 *more than \$500,000;*

22 “(C) *greater than \$500,000 but not*
23 *more than \$1,000,000; and*

24 “(D) *greater than \$1,000,000.*

1 “(e)(1) *Except as provided in subpara-*
2 *graph (F), each report required by section 301*
3 *shall also contain information listed in para-*
4 *graphs (1) through (5) of subsection (a) re-*
5 *specting the spouse or dependent child of the*
6 *reporting individual as follows:*

7 “(A) *The sources of earned income*
8 *earned by a spouse including honoraria*
9 *which exceed \$500 except that, with re-*
10 *spect to earned income if the spouse is*
11 *self-employed in business or a profession,*
12 *only the nature of such business or profes-*
13 *sion need be reported.*

14 “(B) *All information required to be re-*
15 *ported in subsection (a)(1)(B) with respect*
16 *to investment income derived by a spouse*
17 *or dependent child.*

18 “(C) *In the case of any gifts received*
19 *by a spouse or dependent child which are*
20 *not received totally independent of the re-*
21 *lationship of the spouse or dependent*
22 *child to the reporting individual, the*
23 *identity of the source and a brief descrip-*
24 *tion of gifts of transportation, lodging,*

1 *food, or entertainment and a brief de-*
2 *scription and the value of other gifts.*

3 *“(D) In the case of any reimburse-*
4 *ments received by a spouse or dependent*
5 *child which are not received totally inde-*
6 *pendent of the relationship of the spouse*
7 *or dependent child to the reporting indi-*
8 *vidual, the identity of the source and a*
9 *brief description of each such reimburse-*
10 *ment.*

11 *“(E) In the case of items described in*
12 *paragraphs (3) through (5) of subsection*
13 *(a), all information required to be re-*
14 *ported under these paragraphs other than*
15 *items which the reporting individual cer-*
16 *tifies (i) represent the spouse’s or depend-*
17 *ent child’s sole financial interest or re-*
18 *sponsibility and which the reporting indi-*
19 *vidual has no knowledge of, (ii) are not in*
20 *any way, past or present, derived from the*
21 *income, assets, or activities of the report-*
22 *ing individual, and (iii) that he neither*
23 *derives, nor expects to derive, any finan-*
24 *cial or economic benefit.*

1 ***“(F) Reports required by subsections***
2 ***(a), (b), and (c) of section 301 shall, with***
3 ***respect to the spouse and dependent child***
4 ***of the reporting individual, only contain***
5 ***information listed in paragraphs (1), (3),***
6 ***and (4) of subsection (a).***

7 ***“(2) No report shall be required with re-***
8 ***spect to a spouse living separate and apart***
9 ***from the reporting individual with the inten-***
10 ***tion of terminating the marriage or providing***
11 ***for permanent separation, or with respect to***
12 ***any income or obligations of an individual***
13 ***arising from the dissolution of his marriage or***
14 ***the permanent separation from his spouse.***

15 ***“(f)(1) Except as provided in paragraph***
16 ***(2), each reporting individual shall report the***
17 ***information required to be reported pursuant***
18 ***to subsections (a), (b), and (c) with respect to***
19 ***the holdings of and the income from a trust or***
20 ***other financial arrangement from which in-***
21 ***come is received by, or with respect to which***
22 ***a beneficial interest in principal or income is***
23 ***held by, such individual, his spouse, or any de-***
24 ***pendent child.***

1 “(2) *A reporting individual need not report*
2 *the holdings of or the source of income from*
3 *any of the holdings of—*

4 “(A) *any qualified blind trust (as de-*
5 *fined in paragraph (3));*

6 “(B) *a trust—*

7 “(i) *which was not created directly*
8 *by such individual, his spouse, or any*
9 *dependent child, and*

10 “(ii) *the holdings or sources of in-*
11 *come of which such individual, his*
12 *spouse, and any dependent child have*
13 *no knowledge; or*

14 “(C) *an entity described under the*
15 *provisions of paragraph (8), but such in-*
16 *dividual shall report the category of the*
17 *amount of income received by him, his*
18 *spouse, or any dependent child from the*
19 *entity under subsection (a)(1)(B).*

20 “(3) *For purposes of this subsection, the*
21 *term ‘qualified blind trust’ includes any trust*
22 *in which a reporting individual, his spouse, or*
23 *any minor or dependent child has a beneficial*
24 *interest in the principal or income, and which*
25 *meets the following requirements:*

1 “(A)(i) *The trustee of the trust and*
2 *any other entity designated in the trust*
3 *instrument to perform fiduciary duties is*
4 *a financial institution, an attorney, a cer-*
5 *tified public accountant, a broker, or an*
6 *investment advisor who—*

7 *“(I) is independent of and not as-*
8 *sociated with any interested party so*
9 *that the trustee or other person can-*
10 *not be controlled or influenced in the*
11 *administration of the trust by any in-*
12 *terested party;*

13 *“(II) is not and has not been an*
14 *employee of or affiliated with any in-*
15 *terested party and is not a partner of,*
16 *or involved in any joint venture or*
17 *other investment with, any interested*
18 *party; and*

19 *“(III) is not a relative of any inter-*
20 *ested party.*

21 “(ii) *Any officer or employee of a trust-*
22 *ee or other entity who is involved in the*
23 *management or control of the trust—*

24 *“(I) is independent of and not as-*
25 *sociated with any interested party so*

1 *that such officer or employee cannot*
2 *be controlled or influenced in the ad-*
3 *ministration of the trust by any inter-*
4 *ested party;*

5 *“(II) is not a partner of, or in-*
6 *volved in any joint venture or other*
7 *investment with, any interested party;*
8 *and*

9 *“(III) is not a relative of any inter-*
10 *ested party.*

11 *“(B) Any asset transferred to the trust*
12 *by an interested party is free of any re-*
13 *striction with respect to its transfer or*
14 *sale unless such restriction is expressly*
15 *approved by the Office of Government Eth-*
16 *ics.*

17 *“(C) The trust instrument which es-*
18 *tablishes the trust provides that—*

19 *“(i) except to the extent provided*
20 *in subparagraph (B), the trustee in*
21 *the exercise of his authority and dis-*
22 *cretion to manage and control the as-*
23 *sets of the trust shall not consult or*
24 *notify any interested party;*

1 “(ii) *the trust shall not contain*
2 *any asset the holding of which by an*
3 *interested party is prohibited by any*
4 *law or regulation;*

5 “(iii) *the trustee shall promptly*
6 *notify the reporting individual and*
7 *the Office of Government Ethics when*
8 *the holdings of any particular asset*
9 *transferred to the trust by any inter-*
10 *ested party are disposed of or when*
11 *the value of such holding is less than*
12 *\$1,000;*

13 “(iv) *the trust tax return shall be*
14 *prepared by the trustee or his des-*
15 *ignee, and such return and any infor-*
16 *mation relating thereto (other than*
17 *the trust income summarized in ap-*
18 *propriate categories necessary to com-*
19 *plete an interested party’s tax return),*
20 *shall not be disclosed to any inter-*
21 *ested party;*

22 “(v) *an interested party shall not*
23 *receive any report on the holdings and*
24 *sources of income of the trust, except a*
25 *report at the end of each calendar*

1 *quarter with respect to the total cash*
2 *value of the interest of the interested*
3 *party in the trust or the net income or*
4 *loss of the trust or any reports nec-*
5 *essary to enable the interested party to*
6 *complete an individual tax return re-*
7 *quired by law or to provide the infor-*
8 *mation required by subsection (a)(1)*
9 *of this section, but such report shall*
10 *not identify any asset or holding;*

11 *“(vi) except for communications*
12 *which solely consist of requests for*
13 *distributions of cash or other unspec-*
14 *ified assets of the trust, there shall be*
15 *no direct or indirect communication*
16 *between the trustee and an interested*
17 *party with respect to the trust unless*
18 *such communication is in writing and*
19 *unless it relates only (I) to the general*
20 *financial interest and needs of the in-*
21 *terested party (including, but not lim-*
22 *ited to, an interest in maximizing in-*
23 *come or long-term capital gain), (II)*
24 *to the notification of the trustee of a*
25 *law or regulation subsequently appli-*

1 *cable to the reporting individual*
2 *which prohibits the interested party*
3 *from holding an asset, which notifica-*
4 *tion directs that the asset not be held*
5 *by the trust, or (III) to directions to*
6 *the trustee to sell all of an asset ini-*
7 *tially placed in the trust by an inter-*
8 *ested party which in the determina-*
9 *tion of the reporting individual cre-*
10 *ates a conflict of interest or the ap-*
11 *pearance thereof due to the subse-*
12 *quent assumption of duties by the re-*
13 *porting individual (but nothing here-*
14 *in shall require any such direction);*
15 *and*

16 *“(vii) the interested parties shall*
17 *make no effort to obtain information*
18 *with respect to the holdings of the*
19 *trust, including obtaining a copy of*
20 *any trust tax return filed or any infor-*
21 *mation relating thereto except as oth-*
22 *erwise provided in this subsection.*

23 *“(D) The proposed trust instrument*
24 *and the proposed trustee is approved by*
25 *the Office of Government Ethics.*

1 ***“(E) For purposes of this subsection,***
2 ***‘interested party’ means a reporting indi-***
3 ***vidual, his spouse, and any minor or de-***
4 ***pendent child; ‘broker’ has the meaning***
5 ***set forth in section 3(a)(4) of the Securi-***
6 ***ties and Exchange Act of 1934 (15 U.S.C.***
7 ***78c(a)(4)); and ‘investment adviser’ in-***
8 ***cludes any investment adviser who, as de-***
9 ***termined under regulations prescribed by***
10 ***the supervising ethics office, is generally***
11 ***involved in his role as such an adviser in***
12 ***the management or control of trusts.***

13 ***“(4)(A) An asset placed in a trust by an in-***
14 ***terested party shall be considered a financial***
15 ***interest of the reporting individual, for the***
16 ***purposes of any applicable conflict of interest***
17 ***statutes, regulations, or rules of the Federal***
18 ***Government (including section 208 of title 18,***
19 ***United States Code), until such time as the re-***
20 ***porting individual is notified by the trustee***
21 ***that such asset has been disposed of, or has a***
22 ***value of less than \$1,000.***

23 ***“(B)(i) The provisions of subparagraph (A)***
24 ***shall not apply with respect to a trust created***
25 ***for the benefit of a reporting individual, or the***

1 *spouse, dependent child, or minor child of*
2 *such a person, if the Office of Government Eth-*
3 *ics finds that—*

4 *“(I) the assets placed in the trust con-*
5 *sist of a well-diversified portfolio of read-*
6 *ily marketable securities;*

7 *“(II) none of the assets consist of secu-*
8 *rities of entities having substantial activi-*
9 *ties in the area of the reporting individ-*
10 *ual’s primary area of responsibility;*

11 *“(III) the trust instrument prohibits*
12 *the trustee, notwithstanding the provi-*
13 *sions of paragraph (3)(C) (iii) and (iv),*
14 *from making public or informing any in-*
15 *terested party of the sale of any securities;*

16 *“(IV) the trustee is given power of at-*
17 *torney, notwithstanding the provisions of*
18 *paragraph (3)(C)(v), to prepare on behalf*
19 *of any interested party the personal in-*
20 *come tax returns and similar returns*
21 *which may contain information relating*
22 *to the trust; and*

23 *“(V) except as otherwise provided in*
24 *this paragraph, the trust instrument pro-*
25 *vides (or in the case of a trust which by its*

1 *terms does not permit amendment, the*
2 *trustee, the reporting individual, and any*
3 *other interested party agree in writing)*
4 *that the trust shall be administered in ac-*
5 *cordance with the requirements of this*
6 *subsection and the trustee of such trust*
7 *meets the requirements of paragraph*
8 *(3)(A).*

9 *“(ii) In any instance covered by subpara-*
10 *graph (B) in which the reporting individual is*
11 *an individual whose nomination is being con-*
12 *sidered by a congressional committee, the re-*
13 *porting individual shall inform the congres-*
14 *sional committee considering his nomination*
15 *before or during the period of such individ-*
16 *ual’s confirmation hearing of his intention to*
17 *comply with this paragraph.*

18 *“(5)(A) The reporting individual shall,*
19 *within 30 days after a qualified blind trust is*
20 *approved by the Office of Government Ethics,*
21 *file with such office a copy of—*

22 *“(i) the executed trust instrument of*
23 *such trust (other than those provisions*
24 *which relate to the testamentary disposi-*
25 *tion of the trust assets), and*

1 “(ii) a list of the assets which were
2 transferred to such trust, including the
3 category of value of each asset as deter-
4 mined under subsection (d).

5 This subparagraph shall not apply with re-
6 spect to a trust meeting the requirements for
7 being considered a qualified blind trust under
8 paragraph (7).

9 “(B) The reporting individual shall, with-
10 in 30 days of transferring an asset (other than
11 cash) to a previously established qualified
12 blind trust, notify the Office of Government
13 Ethics of the identity of each such asset and
14 the category of value of each asset as deter-
15 mined under subsection (d) of this section.

16 “(C) Within 30 days of the dissolution of a
17 qualified blind trust, a reporting individual
18 shall notify the Office of Government Ethics of
19 such dissolution.

20 “(D) Documents filed under subpara-
21 graphs (A), (B), and (C) and the lists provided
22 by the trustee of assets placed in the trust by
23 an interested party which have been sold shall
24 be made available to the public in the same
25 manner as a report is made available under

1 *section 305 and the provisions of that section*
2 *shall apply with respect to such documents*
3 *and lists.*

4 “(E) A copy of each written communication
5 *with respect to the trust under paragraph*
6 *(3)(C)(vi) shall be filed by the person initiating*
7 *the communication with the Office of Govern-*
8 *ment Ethics within 5 days of the date of the*
9 *communication.*

10 “(6)(A) A trustee of a qualified blind trust
11 *shall not knowingly and willfully, or neg-*
12 *ligently, (i) disclose any information to an in-*
13 *terested party with respect to such trust that*
14 *may not be disclosed under paragraph (3); (ii)*
15 *acquire any holding the ownership of which is*
16 *prohibited by the trust instrument; (iii) solicit*
17 *advice from any interested party with respect*
18 *to such trust, which solicitation is prohibited*
19 *by paragraph (3) or the trust agreement; or*
20 *(iv) fail to file any document required by this*
21 *subsection.*

22 “(B) A reporting individual shall not
23 *knowingly and willfully, or negligently, (i) so-*
24 *licit or receive any information with respect to*
25 *a qualified blind trust of which he is an inter-*

1 *ested party that may not be disclosed under*
2 *paragraph (3)(C) or (ii) fail to file any docu-*
3 *ment required by this subsection.*

4 “(C)(i) *The Attorney General may bring a*
5 *civil action in any appropriate United States*
6 *district court against any individual who*
7 *knowingly and willfully violates the provisions*
8 *of subparagraph (A) or (B). The court in which*
9 *such action is brought may assess against*
10 *such individual a civil penalty in any amount*
11 *not to exceed \$10,000.*

12 “(ii) *The Attorney General may bring a*
13 *civil action in any appropriate United States*
14 *district court against any individual who neg-*
15 *ligently violates the provisions of subpara-*
16 *graph (A) or (B). The court in which such ac-*
17 *tion is brought may assess against such indi-*
18 *vidual a civil penalty in any amount not to ex-*
19 *ceed \$5,000.*

20 “(7) *Any trust may be considered to be a*
21 *qualified blind trust if—*

22 “(A) *the trust instrument is amended*
23 *to comply with the requirements of para-*
24 *graph (3) or, in the case of a trust instru-*
25 *ment which does not by its terms permit*

1 *amendment, the trustee, the reporting in-*
2 *dividual, and any other interested party*
3 *agree in writing that the trust shall be*
4 *administered in accordance with the re-*
5 *quirements of this subsection and the*
6 *trustee of such trust meets the require-*
7 *ments of paragraph (3)(A); except that in*
8 *the case of any interested party who is a*
9 *dependent child, a parent or guardian of*
10 *such child may execute the agreement re-*
11 *ferred to in this subparagraph;*

12 *“(B) a copy of the trust instrument (ex-*
13 *cept testamentary provisions) and a copy*
14 *of the agreement referred to in subpara-*
15 *graph (A), and a list of the assets held by*
16 *the trust at the time of approval by the Of-*
17 *fice of Government Ethics, including the*
18 *category of value of each asset as deter-*
19 *mined under subsection (d), are filed with*
20 *such office and made available to the*
21 *public as provided under paragraph*
22 *(5)(D); and*

23 *“(C) the Director of the Office of Gov-*
24 *ernment Ethics determines that approval*
25 *of the trust arrangement as a qualified*

1 *blind trust is in the particular case ap-*
2 *propriate to assure compliance with ap-*
3 *plicable laws and regulations.*

4 “(8) A reporting individual shall not be re-
5 *quired to report the financial interests held by*
6 *a widely held investment fund (whether such*
7 *fund is a mutual fund, regulated investment*
8 *company, pension or deferred compensation*
9 *plan, or other investment fund), if—*

10 “(A)(i) *the fund is publicly traded; or*

11 “(ii) *the assets of the fund are widely*
12 *diversified; and*

13 “(B) *the reporting individual neither*
14 *exercises control over nor has the ability*
15 *to exercise control over the financial in-*
16 *terests held by the fund.*

17 “(9)(A)(i) *A reporting individual described*
18 *in subsection (a) or (b) of section 301 shall not*
19 *be required to report the holdings or sources*
20 *of income of any trust or investment fund*
21 *where—*

22 “(I) *reporting would result in the dis-*
23 *closure of assets or sources of income of*
24 *another person whose interests are not re-*

1 *quired to be reported by the reporting in-*
2 *dividual under this title;*

3 *“(II) the disclosure of such assets and*
4 *sources of income is prohibited by con-*
5 *tract or the assets and sources of income*
6 *are not otherwise publicly available; and*

7 *“(III) the reporting individual has ex-*
8 *ecuted a written ethics agreement which*
9 *contains a general description of the trust*
10 *or investment fund and a commitment to*
11 *divest the interest in the trust or invest-*
12 *ment fund not later than 90 days after the*
13 *date of the agreement.*

14 *“(ii) An agreement described under clause*
15 *(i)(III) shall be attached to the public finan-*
16 *cial disclosure which would otherwise include*
17 *a listing of the holdings or sources of income*
18 *from this trust or investment fund.*

19 *“(B)(i) The provisions of subparagraph (A)*
20 *shall apply to an individual described in sub-*
21 *section (c) or (d) of section 301 if—*

22 *“(I) the interest in the trust or invest-*
23 *ment fund is acquired involuntarily dur-*
24 *ing the period to be covered by the report,*

1 *such as through marriage or inheritance,*
2 *and*

3 *“(II) for an individual described in*
4 *subsection (c), the individual executes a*
5 *written ethics agreement containing a*
6 *commitment to divest the interest no later*
7 *than 90 days after the date on which the*
8 *report is due.*

9 *“(ii) An agreement described under clause*
10 *(i)(II) shall be attached to the public financial*
11 *disclosure which would otherwise include a*
12 *listing of the holdings or sources of income*
13 *from this trust or investment fund.*

14 *“(iii) Failure to divest within the time*
15 *specified or after an extension granted by the*
16 *Director of the Office of Government Ethics for*
17 *good cause shown shall result in an immediate*
18 *requirement to report as specified in para-*
19 *graph (1).*

20 *“(g) Political campaign funds, including*
21 *campaign receipts and expenditures, need not*
22 *be included in any report filed pursuant to*
23 *this title.*

24 *“(h) A report filed pursuant to subsection*
25 *(a), (c), or (d) of section 301 need not contain*

1 *the information described in subparagraphs*
2 *(A), (B), and (C) of subsection (a)(2) with re-*
3 *spect to gifts and reimbursements received in*
4 *a period when the reporting individual was*
5 *not an officer or employee of the Federal Gov-*
6 *ernment.*

7 “(i) *A reporting individual shall not be re-*
8 *quired under this title to report—*

9 “(1) *financial interests in or income*
10 *derived from—*

11 “(A) *any retirement system under*
12 *title 5, United States Code (including*
13 *the Thrift Savings Plan under sub-*
14 *chapter III of chapter 84 of such title);*
15 *or*

16 “(B) *any other retirement system*
17 *maintained by the United States for*
18 *officers or employees of the United*
19 *States, including the President, or for*
20 *members of the uniformed services; or*

21 “(2) *benefits received under the Social*
22 *Security Act (42 U.S.C. 301 et seq.).*

23 “(j)(1) *Every month, each designated agen-*
24 *cy ethics officer shall submit to the Office of*
25 *Government Ethics notification of any waiver*

1 *of criminal conflict of interest laws granted to*
2 *any individual in the preceding month with*
3 *respect to a filing under this title that is not*
4 *confidential.*

5 *“(2) Every month, the Office of Government*
6 *Ethics shall make publicly available on the*
7 *Internet—*

8 *“(A) all notifications of waivers sub-*
9 *mitted under paragraph (1) in the pre-*
10 *ceding month; and*

11 *“(B) notification of all waivers grant-*
12 *ed by the Office of Government Ethics in*
13 *the preceding month.*

14 *“(k) A full copy of any waiver of criminal*
15 *conflict of interest laws granted shall be in-*
16 *cluded with any filing required under this*
17 *title with respect to the year in which the waiv-*
18 *er is granted.*

19 *“(l) The Office of Government Ethics shall*
20 *provide upon request any waiver on file for*
21 *which notice has been published.*

22 *“SEC. 303. FILING OF REPORTS.*

23 *“(a) Except as otherwise provided in this*
24 *section, the reports required under this title*
25 *shall be filed by the reporting individual with*

1 *the designated agency ethics official at the*
2 *agency by which he is employed (or in the case*
3 *of an individual described in section 301(d),*
4 *was employed) or in which he will serve. The*
5 *date any report is received (and the date of re-*
6 *ceipt of any supplemental report) shall be*
7 *noted on such report by such official.*

8 “(b) *Reports required to be filed under this*
9 *title by the Director of the Office of Govern-*
10 *ment Ethics shall be filed in the Office of Gov-*
11 *ernment Ethics and, immediately after being*
12 *filed, shall be made available to the public in*
13 *accordance with this title.*

14 “(c) *Reports required of members of the*
15 *uniformed services shall be filed with the Sec-*
16 *retary concerned.*

17 “(d) *The Office of Government Ethics shall*
18 *develop and make available forms for report-*
19 *ing the information required by this title.*

20 “SEC. 304. *FAILURE TO FILE OR FILING FALSE REPORTS.*

21 “(a) *The Attorney General may bring a*
22 *civil action in any appropriate United States*
23 *district court against any individual who*
24 *knowingly and willfully falsifies or who know-*
25 *ingly and willfully fails to file or report any*

1 *information that such individual is required*
2 *to report pursuant to section 302. The court in*
3 *which such action is brought may assess*
4 *against such individual a civil penalty in any*
5 *amount, not to exceed \$10,000.*

6 “(b) *The head of each agency, each Sec-*
7 *retary concerned, or the Director of the Office*
8 *of Government Ethics, as the case may be,*
9 *shall refer to the Attorney General the name*
10 *of any individual which such official has rea-*
11 *sonable cause to believe has willfully failed to*
12 *file a report or has willfully falsified or will-*
13 *fully failed to file information required to be*
14 *reported.*

15 “(c) *The President, the Vice President, the*
16 *Secretary concerned, or the head of each agen-*
17 *cy may take any appropriate personnel or*
18 *other action in accordance with applicable*
19 *law or regulation against any individual fail-*
20 *ing to file a report or falsifying or failing to*
21 *report information required to be reported.*

22 “(d)(1) *Any individual who files a report*
23 *required to be filed under this title more than*
24 *30 days after the later of—*

1 “(A) *the date such report is required*
2 *to be filed pursuant to the provisions of*
3 *this title and the rules and regulations*
4 *promulgated thereunder; or*

5 “(B) *if a filing extension is granted to*
6 *such individual under section 301(g), the*
7 *last day of the filing extension period,*
8 *shall, at the direction of and pursuant to*
9 *regulations issued by the Office of Govern-*
10 *ment Ethics, pay a filing fee of \$500. All*
11 *such fees shall be deposited in the mis-*
12 *cellaneous receipts of the Treasury. The*
13 *authority under this paragraph to direct*
14 *the payment of a filing fee may be dele-*
15 *gated by the Office of Government Ethics*
16 *to other agencies in the executive branch.*

17 “(2) *The Office of Government Ethics may*
18 *waive the filing fee under this subsection for*
19 *good cause shown.*

20 “SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

21 “*Any report filed with or transmitted to an*
22 *agency or the Office of Government Ethics pur-*
23 *suant to this title shall be retained by such*
24 *agency or Office, as the case may be, for a pe-*
25 *riod of 6 years after receipt of the report. After*

1 *such 6-year period the report shall be de-*
2 *stroyed unless needed in an ongoing investiga-*
3 *tion, except that in the case of an individual*
4 *who filed the report pursuant to section 301(b)*
5 *and was not subsequently confirmed by the*
6 *Senate, such reports shall be destroyed 1 year*
7 *after the individual is no longer under consid-*
8 *eration by the Senate, unless needed in an on-*
9 *going investigation.*

10 *“SEC. 306. REVIEW OF REPORTS.*

11 *“(a) Each designated agency ethics official*
12 *or Secretary concerned shall make provisions*
13 *to ensure that each report filed with him*
14 *under this title is reviewed within 60 days*
15 *after the date of such filing, except that the Di-*
16 *rector of the Office of Government Ethics shall*
17 *review only those reports required to be trans-*
18 *mitted to him under this title within 60 days*
19 *after the date of transmittal.*

20 *“(b)(1) If after reviewing any report under*
21 *subsection (a), the Director of the Office of*
22 *Government Ethics, the Secretary concerned,*
23 *or the designated agency ethics official, as the*
24 *case may be, is of the opinion that on the basis*
25 *of information contained in such report the in-*

1 *dividual submitting such report is in compli-*
2 *ance with applicable laws and regulations, he*
3 *shall state such opinion on the report, and*
4 *shall sign such report.*

5 “(2) *If the Director of the Office of Govern-*
6 *ment Ethics, the Secretary concerned, or the*
7 *designated agency ethics official after review-*
8 *ing any report under subsection (a)—*

9 “(A) *believes additional information is*
10 *required to be submitted to complete the*
11 *form or to perform a conflict of interest*
12 *analysis, he shall notify the individual*
13 *submitting such report what additional*
14 *information is required and the time by*
15 *which it must be submitted, or*

16 “(B) *is of the opinion, on the basis of*
17 *information submitted, that the indi-*
18 *vidual is not in compliance with applica-*
19 *ble laws and regulations, he shall notify*
20 *the individual, afford a reasonable oppor-*
21 *tunity for a written or oral response, and*
22 *after consideration of such response,*
23 *reach an opinion as to whether or not, on*
24 *the basis of information submitted, the in-*

1 *dividual is in compliance with such laws*
2 *and regulations.*

3 ***“(3) If the Director of the Office of Govern-***
4 ***ment Ethics, the Secretary concerned, or the***
5 ***designated agency ethics official reaches an***
6 ***opinion under paragraph (2)(B) that an indi-***
7 ***vidual is not in compliance with applicable***
8 ***laws and regulations, the official shall notify***
9 ***the individual of that opinion and, after an***
10 ***opportunity for personal consultation (if prac-***
11 ***ticable), determine and notify the individual***
12 ***of which steps, if any, would in the opinion of***
13 ***such official be appropriate for assuring com-***
14 ***pliance with such laws and regulations and***
15 ***the date by which such steps should be taken.***
16 ***Such steps may include, as appropriate—***

17 ***“(A) divestiture,***

18 ***“(B) restitution,***

19 ***“(C) the establishment of a blind***
20 ***trust,***

21 ***“(D) request for an exemption under***
22 ***section 208(b) of title 18, United States***
23 ***Code, or***

1 “(E) *voluntary request for transfer, re-*
2 *assignment, limitation of duties, or res-*
3 *ignation.*

4 *The use of any such steps shall be in accord-*
5 *ance with such rules or regulations as the Of-*
6 *fice of Government Ethics may prescribe.*

7 “(4) *If steps for assuring compliance with*
8 *applicable laws and regulations are not taken*
9 *by the date set under paragraph (3) by a mem-*
10 *ber of the Foreign Service or the uniformed*
11 *services, the Secretary concerned shall take*
12 *appropriate action.*

13 “(5) *If steps for assuring compliance with*
14 *applicable laws and regulations are not taken*
15 *by the date set under paragraph (3) by any*
16 *other officer or employee, the matter shall be*
17 *referred to the head of the appropriate agency*
18 *for appropriate action.*

19 “(6) *The Office of Government Ethics may*
20 *render advisory opinions interpreting this*
21 *title. Notwithstanding any other provision of*
22 *law, the individual to whom a public advisory*
23 *opinion is rendered in accordance with this*
24 *paragraph, and any other individual covered*
25 *by this title who is involved in a fact situation*

1 *which is indistinguishable in all material as-*
2 *pects, and who acts in good faith in accord-*
3 *ance with the provisions and findings of such*
4 *advisory opinion shall not, as a result of such*
5 *act, be subject to any penalty or sanction pro-*
6 *vided by this title.*

7 *“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-*
8 *TIONAL REQUIREMENTS.*

9 *“(a)(1) The Office of Government Ethics*
10 *may require officers and employees of the exec-*
11 *utive branch (including special Government*
12 *employees as defined in section 202 of title 18,*
13 *United States Code) to file confidential finan-*
14 *cial disclosure reports, in such form as it may*
15 *prescribe. The information required to be re-*
16 *ported under this subsection by the officers*
17 *and employees of any department or agency*
18 *listed in section 301(e) shall be set forth in*
19 *rules or regulations prescribed by the Office of*
20 *Government Ethics, and may be less extensive*
21 *than otherwise required by this title, or more*
22 *extensive when determined by the Office of*
23 *Government Ethics to be necessary and appro-*
24 *priate in light of sections 202 through 209 of*
25 *title 18, United States Code, regulations pro-*

1 *mulgated thereunder, or the authorized activi-*
2 *ties of such officers or employees. Any indi-*
3 *vidual required to file a report pursuant to*
4 *section 301 shall not be required to file a con-*
5 *fidential report pursuant to this subsection,*
6 *except with respect to information which is*
7 *more extensive than information otherwise re-*
8 *quired by this title. Section 305 shall not apply*
9 *with respect to any such report.*

10 “(2) *Any information required to be pro-*
11 *vided by an individual under this subsection*
12 *shall be confidential and shall not be dis-*
13 *closed to the public.*

14 “(3) *Nothing in this subsection exempts*
15 *any individual otherwise covered by the re-*
16 *quirement to file a public financial disclosure*
17 *report under this title from such requirement.*

18 “(b) *The provisions of this title requiring*
19 *the reporting of information shall supersede*
20 *any general requirement under any other pro-*
21 *vision of law or regulation with respect to the*
22 *reporting of information required for purposes*
23 *of preventing conflicts of interest or apparent*
24 *conflicts of interest. Such provisions of this*

1 *title shall not supersede the requirements of*
2 *section 7342 of title 5, United States Code.*

3 “(c) *Nothing in this Act requiring report-*
4 *ing of information shall be deemed to author-*
5 *ize the receipt of income, gifts, or reimburse-*
6 *ments; the holding of assets, liabilities, or posi-*
7 *tions; or the participation in transactions that*
8 *are prohibited by law, Executive order, rule, or*
9 *regulation.*

10 “SEC. 308. *AUTHORITY OF COMPTROLLER GENERAL.*

11 “*The Comptroller General shall have ac-*
12 *cess to financial disclosure reports filed under*
13 *this title for the purposes of carrying out his*
14 *statutory responsibilities.*

15 “SEC. 309. *DEFINITIONS.*

16 “*For the purposes of this title—*

17 “(1) *the term ‘dependent child’ means,*
18 *when used with respect to any reporting*
19 *individual, any individual who is a son,*
20 *daughter, stepson, or stepdaughter and*
21 *who—*

22 “(A) *is unmarried and under age*
23 *21 and is living in the household of*
24 *such reporting individual; or*

1 ***“(B) is a dependent of such report-***
2 ***ing individual within the meaning of***
3 ***section 152 of the Internal Revenue***
4 ***Code of 1986 (26 U.S.C. 152);***

5 ***“(2) the term ‘designated agency ethics***
6 ***official’ means an officer or employee who***
7 ***is designated to administer the provisions***
8 ***of this title within an agency;***

9 ***“(3) the term ‘executive branch’ in-***
10 ***cludes—***

11 ***“(A) each Executive agency (as de-***
12 ***finied in section 105 of title 5, United***
13 ***States Code), other than the General***
14 ***Accounting Office; and***

15 ***“(B) any other entity or adminis-***
16 ***trative unit in the executive branch;***

17 ***“(4) the term ‘gift’ means a payment,***
18 ***advance, forbearance, rendering, or de-***
19 ***posit of money, or any thing of value, un-***
20 ***less consideration of equal or greater***
21 ***value is received by the donor, but does***
22 ***not include—***

23 ***“(A) bequests and other forms of***
24 ***inheritance;***

1 “(B) *suitable mementos of a func-*
2 *tion honoring the reporting indi-*
3 *vidual;*

4 “(C) *food, lodging, transportation,*
5 *and entertainment provided by a for-*
6 *ign government within a foreign*
7 *country or by the United States Gov-*
8 *ernment, the District of Columbia, or*
9 *a State or local government or polit-*
10 *ical subdivision thereof;*

11 “(D) *food and beverages which are*
12 *not consumed in connection with a*
13 *gift of overnight lodging;*

14 “(E) *communications to the offices*
15 *of a reporting individual, including*
16 *subscriptions to newspapers and peri-*
17 *odicals; or*

18 “(F) *items that are accepted pur-*
19 *suant to or are required to be reported*
20 *by the reporting individual under sec-*
21 *tion 7342 of title 5, United States*
22 *Code.*

23 “(5) *the term ‘honorarium’ means a*
24 *payment of money or anything of value for*
25 *an appearance, speech, or article;*

1 “(6) *the term ‘income’ means all in-*
2 *come from whatever source derived, in-*
3 *cluding but not limited to the following*
4 *items: compensation for services, includ-*
5 *ing fees, commissions, and similar items;*
6 *gross income derived from business (and*
7 *net income if the individual elects to in-*
8 *clude it); gains derived from dealings in*
9 *property; interest; rents; royalties; prizes*
10 *and awards; dividends; annuities; income*
11 *from life insurance and endowment con-*
12 *tracts; pensions; income from discharge of*
13 *indebtedness; distributive share of part-*
14 *nership income; and income from an in-*
15 *terest in an estate or trust;*

16 “(7) *the term ‘personal hospitality of*
17 *any individual’ means hospitality ex-*
18 *tended for a nonbusiness purpose by an*
19 *individual, not a corporation or organiza-*
20 *tion, at the personal residence of that in-*
21 *dividual or his family or on property or*
22 *facilities owned by that individual or his*
23 *family;*

24 “(8) *the term ‘reimbursement’ means*
25 *any payment or other thing of value re-*

1 *ceived by the reporting individual, other*
2 *than gifts, to cover travel-related expenses*
3 *of such individual other than those which*
4 *are—*

5 “(A) *provided by the United States*
6 *Government, the District of Columbia,*
7 *or a State or local government or po-*
8 *litical subdivision thereof;*

9 “(B) *required to be reported by the*
10 *reporting individual under section*
11 *7342 of title 5, United States Code; or*

12 “(C) *required to be reported under*
13 *section 304 of the Federal Election*
14 *Campaign Act of 1971 (2 U.S.C. 434);*

15 “(9) *the term ‘relative’ means an indi-*
16 *vidual who is related to the reporting in-*
17 *dividual, as father, mother, son, daughter,*
18 *brother, sister, uncle, aunt, great aunt,*
19 *great uncle, first cousin, nephew, niece,*
20 *husband, wife, grandfather, grandmother,*
21 *grandson, granddaughter, father-in-law,*
22 *mother-in-law, son-in-law, daughter-in-*
23 *law, brother-in-law, sister-in-law, step-*
24 *father, stepmother, stepson, stepdaughter,*
25 *stepbrother, stepsister, half brother, half*

1 *sister, or who is the grandfather or grand-*
2 *mother of the spouse of the reporting indi-*
3 *vidual, and shall be deemed to include*
4 *the fiancé or fiancée of the reporting indi-*
5 *vidual;*

6 “(10) the term ‘Secretary concerned’
7 *has the meaning set forth in section*
8 *101(a)(9) of title 10, United States Code;*
9 *and*

10 “(11) the term ‘value’ means a good
11 *faith estimate of the dollar value if the*
12 *exact value is neither known nor easily*
13 *obtainable by the reporting individual.*

14 “SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH
15 *ETHICS AGREEMENTS.*

16 “(a) *In any case in which an individual*
17 *agrees with that individual’s designated agen-*
18 *cy ethics official, the Office of Government*
19 *Ethics, or a Senate confirmation committee, to*
20 *take any action to comply with this Act or any*
21 *other law or regulation governing conflicts of*
22 *interest of, or establishing standards of con-*
23 *duct applicable with respect to, officers or em-*
24 *ployees of the Government, that individual*
25 *shall notify in writing the designated agency*

1 *ethics official, the Office of Government Eth-*
2 *ics, or the appropriate committee of the Sen-*
3 *ate, as the case may be, of any action taken by*
4 *the individual pursuant to that agreement.*
5 *Such notification shall be made not later than*
6 *the date specified in the agreement by which*
7 *action by the individual must be taken, or not*
8 *later than 3 months after the date of the agree-*
9 *ment, if no date for action is so specified. If all*
10 *actions agreed to have not been completed by*
11 *the date of this notification, such notification*
12 *shall continue on a monthly basis thereafter*
13 *until the individual has met the terms of the*
14 *agreement.*

15 “(b) *If an agreement described in sub-*
16 *section (a) requires that the individual recuse*
17 *himself or herself from particular categories*
18 *of agency or other official action, the indi-*
19 *vidual shall reduce to writing those subjects*
20 *regarding which the recusal agreement will*
21 *apply and the process by which it will be deter-*
22 *mined whether the individual must recuse*
23 *himself or herself in a specific instance. An in-*
24 *dividual shall be considered to have complied*
25 *with the requirements of subsection (a) with*

1 *respect to such recusal agreement if such indi-*
 2 *vidual files a copy of the document setting*
 3 *forth the information described in the pre-*
 4 *ceding sentence with such individual's des-*
 5 *ignated agency ethics official or the Office of*
 6 *Government Ethics within the time prescribed*
 7 *in the penultimate sentence of subsection (a).*

8 *"SEC. 311. ADMINISTRATION OF PROVISIONS.*

9 *"The Office of Government Ethics shall*
 10 *issue regulations, develop forms, and provide*
 11 *such guidance as is necessary to implement*
 12 *and interpret this title."*

13 *(b) EXEMPTION FROM PUBLIC ACCESS TO FI-*
 14 *NANCIAL DISCLOSURES.—Section 105(a)(1) of*
 15 *such Act is amended by inserting "the Office*
 16 *of the National Intelligence Director," before*
 17 *"the Central Intelligence Agency".*

18 *(c) CONFORMING AMENDMENT.—Section*
 19 *101(f) of such Act is amended—*

20 *(1) in paragraph (12), by striking the*
 21 *period at the end and inserting a semi-*
 22 *colon; and*

23 *(2) by adding at the end the following:*

1 *“but do not include any officer or employee of*
2 *any department or agency listed in section*
3 *301(e).”.*

4 *SEC. 5044. REDUCTION OF POSITIONS REQUIRING APPOINT-*
5 *MENT WITH SENATE CONFIRMATION.*

6 *(a) DEFINITION.—In this section, the term*
7 *“agency” means an Executive agency, as de-*
8 *fin ed under section 105 of title 5, United States*
9 *Code.*

10 *(b) REDUCTION PLAN.—*

11 *(1) IN GENERAL.—Not later than 180*
12 *days after the date of enactment of this*
13 *Act, the head of each agency shall submit*
14 *a Presidential appointment reduction*
15 *plan to—*

16 *(A) the President;*

17 *(B) the Committee on Govern-*
18 *mental Affairs of the Senate; and*

19 *(C) the Committee on Government*
20 *Reform of the House of Representa-*
21 *tives.*

22 *(2) CONTENT.—The plan under this*
23 *subsection shall provide for the reduction*
24 *of—*

1 (A) *the number of positions within*
 2 *that agency that require an appoint-*
 3 *ment by the President, by and with the*
 4 *advice and consent of the Senate; and*
 5 (B) *the number of levels of such*
 6 *positions within that agency.*

7 *SEC. 5045. EFFECTIVE DATES.*

8 (a) *SECTION 5043.—*

9 (1) *IN GENERAL.—Subject to paragraph*
 10 (2), *the amendments made by section 5043*
 11 *shall take effect on January 1 of the year*
 12 *following the year in which occurs the*
 13 *date of enactment of this Act.*

14 (2) *LATER DATE.—If this Act is enacted*
 15 *on or after July 1 of a year, the amend-*
 16 *ments made by section 301 shall take ef-*
 17 *fect on July 1 of the following year.*

18 (b) *SECTION 5044.—Section 5044 shall take*
 19 *effect on the date of enactment of this Act.*

20 **CHAPTER 2—FEDERAL BUREAU OF**
 21 **INVESTIGATION REVITALIZATION**

22 *SEC. 5051. MANDATORY SEPARATION AGE.*

23 (a) *CIVIL SERVICE RETIREMENT SYSTEM.—*
 24 *Section 8335(b) of title 5, United States Code,*
 25 *is amended—*

1 (1) *by striking “(b)” and inserting*
2 *“(b)(1)”*; and

3 (2) *by adding at the end the following:*

4 *“(2) In the case of employees of the Federal*
5 *Bureau of Investigation, the second sentence of*
6 *paragraph (1) shall be applied by substituting*
7 *‘65 years of age’ for ‘60 years of age’. The au-*
8 *thority to grant exemptions in accordance*
9 *with the preceding sentence shall cease to be*
10 *available after December 31, 2009.”.*

11 (b) *FEDERAL EMPLOYEES’ RETIREMENT SYS-*
12 *TEM.—Section 8425(b) of title 5, United States*
13 *Code, is amended—*

14 (1) *by striking “(b)” and inserting*
15 *“(b)(1)”*; and

16 (2) *by adding at the end the following:*

17 *“(2) In the case of employees of the Federal*
18 *Bureau of Investigation, the second sentence of*
19 *paragraph (1) shall be applied by substituting*
20 *‘65 years of age’ for ‘60 years of age’. The au-*
21 *thority to grant exemptions in accordance*
22 *with the preceding sentence shall cease to be*
23 *available after December 31, 2009.”.*

1 *SEC. 5052. RETENTION AND RELOCATION BONUSES.*

2 ***(a) IN GENERAL.—Subchapter IV of chapter***
3 ***57 of title 5, United States Code, is amended***
4 ***by adding at the end the following:***

5 ***“§ 5759. Retention and relocation bonuses for the Fed-***
6 ***eral Bureau of Investigation***

7 ***“(a) AUTHORITY.—The Director of the Fed-***
8 ***eral Bureau of Investigation, after consulta-***
9 ***tion with the Director of the Office of Per-***
10 ***sonnel Management, may pay, on a case-by-***
11 ***case basis, a bonus under this section to an***
12 ***employee of the Bureau if—***

13 ***“(1)(A) the unusually high or unique***
14 ***qualifications of the employee or a special***
15 ***need of the Bureau for the employee’s serv-***
16 ***ices makes it essential to retain the em-***
17 ***ployee; and***

18 ***“(B) the Director of the Federal Bu-***
19 ***reau of Investigation determines that, in***
20 ***the absence of such a bonus, the employee***
21 ***would be likely to leave—***

22 ***“(i) the Federal service; or***

23 ***“(ii) for a different position in the***
24 ***Federal service; or***

25 ***“(2) the individual is transferred to a***
26 ***different geographic area with a higher***

1 *cost of living (as determined by the Direc-*
2 *tor of the Federal Bureau of Investiga-*
3 *tion).*

4 “(b) *SERVICE AGREEMENT.—Payment of a*
5 *bonus under this section is contingent upon*
6 *the employee entering into a written service*
7 *agreement with the Bureau to complete a pe-*
8 *riod of service with the Bureau. Such agree-*
9 *ment shall include—*

10 “(1) *the period of service the indi-*
11 *vidual shall be required to complete in re-*
12 *turn for the bonus; and*

13 “(2) *the conditions under which the*
14 *agreement may be terminated before the*
15 *agreed-upon service period has been com-*
16 *pleted, and the effect of the termination.*

17 “(c) *LIMITATION ON AUTHORITY.—A bonus*
18 *paid under this section may not exceed 50 per-*
19 *cent of the employee’s basic pay.*

20 “(d) *IMPACT ON BASIC PAY.—A retention*
21 *bonus is not part of the basic pay of an em-*
22 *ployee for any purpose.*

23 “(e) *TERMINATION OF AUTHORITY.—The au-*
24 *thority to grant bonuses under this section*

1 *shall cease to be available after December 31,*
 2 *2009.”.*

3 **(b) CLERICAL AMENDMENT.—***The analysis*
 4 *for chapter 57 of title 5, United States Code, is*
 5 *amended by adding at the end the following:*

*“5759. Retention and relocation bonuses for the Federal Bureau
 of Investigation.”.*

6 **SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RESERVE**
 7 **SERVICE.**

8 **(a) IN GENERAL.—***Chapter 35 of title 5,*
 9 *United States Code, is amended by adding at*
 10 *the end the following:*

11 **“SUBCHAPTER VII—RETENTION OF RE-**
 12 **TIRED SPECIALIZED EMPLOYEES AT**
 13 **THE FEDERAL BUREAU OF INVESTIGA-**
 14 **TION**

15 **“§ 3598. Federal Bureau of Investigation Reserve Serv-**
 16 **ice**

17 **“(a) ESTABLISHMENT.—***The Director of the*
 18 *Federal Bureau of Investigation may provide*
 19 *for the establishment and training of a Fed-*
 20 *eral Bureau of Investigation Reserve Service*
 21 *(hereinafter in this section referred to as the*
 22 *‘FBI Reserve Service’) for temporary reemploy-*
 23 *ment of employees in the Bureau during peri-*

1 *ods of emergency, as determined by the Direc-*
2 *tor.*

3 “(b) *MEMBERSHIP.—Membership in the FBI*
4 *Reserve Service shall be limited to individuals*
5 *who previously served as full-time employees of*
6 *the Bureau.*

7 “(c) *ANNUITANTS.—If an individual receiv-*
8 *ing an annuity from the Civil Service Retire-*
9 *ment and Disability Fund on the basis of such*
10 *individual’s service becomes temporarily reem-*
11 *ployed pursuant to this section, such annuity*
12 *shall not be discontinued thereby. An indi-*
13 *vidual so reemployed shall not be considered*
14 *an employee for the purposes of chapter 83 or*
15 *84.*

16 “(d) *NO IMPACT ON BUREAU PERSONNEL*
17 *CEILING.—FBI Reserve Service members reem-*
18 *ployed on a temporary basis pursuant to this*
19 *section shall not count against any personnel*
20 *ceiling applicable to the Bureau.*

21 “(e) *EXPENSES.—The Director may provide*
22 *members of the FBI Reserve Service transpor-*
23 *tation and per diem in lieu of subsistence, in*
24 *accordance with applicable provisions of this*
25 *title, for the purpose of participating in any*

1 *training that relates to service as a member of*
 2 *the FBI Reserve Service.*

3 *“(f) LIMITATION ON MEMBERSHIP.—Member-*
 4 *ship of the FBI Reserve Service is not to exceed*
 5 *500 members at any given time.”.*

6 *(b) CLERICAL AMENDMENT.—The analysis*
 7 *for chapter 35 of title 5, United States Code, is*
 8 *amended by adding at the end the following:*

“SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED EMPLOYEES
AT THE FEDERAL BUREAU OF INVESTIGATION

“3598. Federal Bureau of Investigation Reserve Service.”.

9 *SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU*
 10 *OF INVESTIGATION INTELLIGENCE DIREC-*
 11 *TORATE.*

12 *Section 5377(a)(2) of title 5, United States*
 13 *Code, is amended—*

14 *(1) by striking “and” at the end of sub-*
 15 *paragraph (E);*

16 *(2) by striking the period at the end of*
 17 *subparagraph (F) and inserting “; and”;*
 18 *and*

19 *(3) by inserting after subparagraph*
 20 *(F) the following:*

21 *“(G) a position at the Federal Bu-*
 22 *reau of Investigation, the primary du-*
 23 *ties and responsibilities of which re-*

late to intelligence functions (as determined by the Director of the Federal Bureau of Investigation).”.

CHAPTER 3—MANAGEMENT AUTHORITY

SEC. 5061. MANAGEMENT AUTHORITY.

(a) MANAGEMENT AUTHORITY.—Section 7103(b)(1)(A) of title 5, United States Code, is amended by adding “homeland security,” after “investigative,”.

(b) EXCLUSIONARY AUTHORITY.—Section 842 of the Homeland Security Act (Public Law 107–296; 6 U.S.C. 412) is repealed.

Subtitle F—Security Clearance Modernization

SEC. 5071. DEFINITIONS.

In this subtitle:

(1) The term “Director” means the National Intelligence Director.

(2) The term “agency” means—

(A) an executive agency, as defined in section 105 of title 5, United States Code;

(B) a military department, as defined in section 102 of title 5, United States Code; and

1 (C) *elements of the intelligence*
2 *community, as defined in section 3(4)*
3 *of the National Security Act of 1947*
4 *(50 U.S.C. 401a(4)).*

5 (3) *The term “authorized investigative*
6 *agency” means an agency authorized by*
7 *law, regulation or direction of the Direc-*
8 *tor to conduct a counterintelligence inves-*
9 *tigation or investigation of persons who*
10 *are proposed for access to classified infor-*
11 *mation to ascertain whether such persons*
12 *satisfy the criteria for obtaining and re-*
13 *taining access to such information.*

14 (4) *The term “authorized adjudicative*
15 *agency” means an agency authorized by*
16 *law, regulation or direction of the Direc-*
17 *tor to determine eligibility for access to*
18 *classified information in accordance with*
19 *Executive Order 12968.*

20 (5) *The term “highly sensitive pro-*
21 *gram” means—*

22 (A) *a government program des-*
23 *ignated as a Special Access Program*
24 *(as defined by section 4.1(h) of Execu-*
25 *tive Order 12958); and*

1 ***(B) a government program that***
2 ***applies restrictions required for—***

3 ***(i) Restricted Data (as defined***
4 ***by section 11 y. of the Atomic En-***
5 ***ergy Act of 1954 (42 U.S.C.***
6 ***2014(y)); or***

7 ***(ii) other information com-***
8 ***monly referred to as “Sensitive***
9 ***Compartmented Information”.***

10 ***(6) The term “current investigation***
11 ***file” means, with respect to a security***
12 ***clearance, a file on an investigation or***
13 ***adjudication that has been conducted***
14 ***during—***

15 ***(A) the 5-year period beginning on***
16 ***the date the security clearance was***
17 ***granted, in the case of a Top Secret***
18 ***Clearance, or the date access was***
19 ***granted to a highly sensitive program;***

20 ***(B) the 10-year period beginning***
21 ***on the date the security clearance was***
22 ***granted in the case of a Secret Clear-***
23 ***ance; and***

24 ***(C) the 15-year period beginning***
25 ***on the date the security clearance was***

1 *granted in the case of a Confidential*
2 *Clearance.*

3 (7) *The term “personnel security inves-*
4 *tigation” means any investigation re-*
5 *quired for the purpose of determining the*
6 *eligibility of any military, civilian, or gov-*
7 *ernment contractor personnel to access*
8 *classified information.*

9 (8) *The term “periodic reinvestiga-*
10 *tions” means—*

11 (A) *investigations conducted for*
12 *the purpose of updating a previously*
13 *completed background investigation—*

14 (i) *every five years in the case*
15 *of a Top Secret Clearance or ac-*
16 *cess to a highly sensitive program;*

17 (ii) *every 10 years in the case*
18 *of a Secret Clearance; and*

19 (iii) *every 15 years in the case*
20 *of a Confidential Clearance;*

21 (B) *on-going investigations to*
22 *identify personnel security risks as*
23 *they develop, pursuant to section*
24 *105(c).*

1 ***(9) The term “appropriate committees***
2 ***of Congress” means—***

3 ***(A) the Permanent Select Com-***
4 ***mittee on Intelligence and the Com-***
5 ***mittees on Armed Services, Judiciary,***
6 ***and Government Reform of the House***
7 ***of Representatives; and***

8 ***(B) the Select Committee on Intel-***
9 ***ligence and the Committees on Armed***
10 ***Services, Judiciary, and Govern-***
11 ***mental Affairs of the Senate.***

12 ***SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE PRO-***
13 ***GRAMS OVERSIGHT AND ADMINISTRATION.***

14 ***The Deputy National Intelligence Director***
15 ***for Community Management and Resources***
16 ***shall have responsibility for the following:***

17 ***(1) Directing day-to-day oversight of***
18 ***investigations and adjudications for per-***
19 ***sonnel security clearances to highly sen-***
20 ***sitive programs throughout the Federal***
21 ***Government.***

22 ***(2) Developing and implementing uni-***
23 ***form and consistent policies and proce-***
24 ***dures to ensure the effective, efficient, and***
25 ***timely completion of security clearances***

1 *and determinations for access to highly*
2 *sensitive programs, including the stand-*
3 *ardization of security questionnaires, fi-*
4 *nancial disclosure requirements for secu-*
5 *rity clearance applicants, and polygraph*
6 *policies and procedures.*

7 *(3) Serving as the final authority to*
8 *designate an authorized investigative*
9 *agency or authorized adjudicative agency*
10 *pursuant to section 5074(d).*

11 *(4) Ensuring reciprocal recognition of*
12 *access to classified information among*
13 *agencies, including acting as the final au-*
14 *thority to arbitrate and resolve disputes*
15 *involving the reciprocity of security clear-*
16 *ances and access to highly sensitive pro-*
17 *grams.*

18 *(5) Ensuring, to the maximum extent*
19 *practicable, that sufficient resources are*
20 *available in each agency to achieve clear-*
21 *ance and investigative program goals.*

22 *(6) Reviewing and coordinating the*
23 *development of tools and techniques for*
24 *enhancing the conduct of investigations*
25 *and granting of clearances.*

1 *SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND AC-*
2 *CESS DETERMINATIONS.*

3 *(a) REQUIREMENT FOR RECIPROCITY.—(1) All*
4 *security clearance background investigations*
5 *and determinations completed by an author-*
6 *ized investigative agency or authorized adju-*
7 *dicative agency shall be accepted by all agen-*
8 *cies.*

9 *(2) All security clearance background in-*
10 *vestigations initiated by an authorized inves-*
11 *tigative agency shall be transferable to any*
12 *other authorized investigative agency.*

13 *(b) PROHIBITION ON ESTABLISHING ADDI-*
14 *TIONAL REQUIREMENTS.—(1) An authorized in-*
15 *vestigative agency or authorized adjudicative*
16 *agency may not establish additional investiga-*
17 *tive or adjudicative requirements (other than*
18 *requirements for the conduct of a polygraph*
19 *examination) that exceed requirements speci-*
20 *fied in Executive Orders establishing security*
21 *requirements for access to classified informa-*
22 *tion.*

23 *(2) Notwithstanding the paragraph (1),*
24 *the Director may establish additional require-*
25 *ments as needed for national security pur-*
26 *poses.*

1 **(c) PROHIBITION ON DUPLICATIVE INVESTIGA-**
2 **TIONS.—An authorized investigative agency or**
3 **authorized adjudicative agency may not con-**
4 **duct an investigation for purposes of deter-**
5 **mining whether to grant a security clearance**
6 **to an individual where a current investigation**
7 **or clearance of equal level already exists or**
8 **has been granted by another authorized adju-**
9 **dicative agency.**

10 **SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .**

11 **(a) ESTABLISHMENT.—Not later than 12**
12 **months after the date of the enactment of this**
13 **Act, the Director of the Office of Personnel**
14 **Management, in cooperation with the Director,**
15 **shall establish, and begin operating and**
16 **maintaining, an integrated, secure, national**
17 **database into which appropriate data rel-**
18 **evant to the granting, denial, or revocation of**
19 **a security clearance or access pertaining to**
20 **military, civilian, or government contractor**
21 **personnel shall be entered from all authorized**
22 **investigative and adjudicative agencies.**

23 **(b) INTEGRATION.—The national database**
24 **established under subsection (a) shall func-**
25 **tion to integrate information from existing**

1 *Federal clearance tracking systems from other*
2 *authorized investigative and adjudicative*
3 *agencies into a single consolidated database.*

4 **(c) REQUIREMENT TO CHECK DATABASE.—**
5 *Each authorized investigative or adjudicative*
6 *agency shall check the national database es-*
7 *tablished under subsection (a) to determine*
8 *whether an individual the agency has identi-*
9 *fied as requiring a security clearance has al-*
10 *ready been granted or denied a security clear-*
11 *ance, or has had a security clearance revoked,*
12 *by any other authorized investigative or adju-*
13 *dicative agency.*

14 **(d) CERTIFICATION OF AUTHORIZED INVES-**
15 **TIGATIVE AGENCIES OR AUTHORIZED ADJUDICA-**
16 **TIVE AGENCIES.—***The Director shall evaluate*
17 *the extent to which an agency is submitting in-*
18 *formation to, and requesting information*
19 *from, the national database established under*
20 *subsection (a) as part of a determination of*
21 *whether to certify the agency as an authorized*
22 *investigative agency or authorized adjudica-*
23 *tive agency.*

24 **(e) EXCLUSION OF CERTAIN INTELLIGENCE**
25 **OPERATIVES.—***The Director may authorize an*

1 *agency to withhold information about certain*
2 *individuals from the database established*
3 *under subsection (a) if the Director determines*
4 *it is necessary for national security purposes.*

5 (f) *COMPLIANCE.—The Director shall estab-*
6 *lish a review procedure by which agencies can*
7 *seek review of actions required under section*
8 *5073.*

9 (g) *AUTHORIZATION OF APPROPRIATIONS.—*
10 *There is authorized to be appropriated such*
11 *sums as may be necessary for fiscal year 2005*
12 *and each subsequent fiscal year for the imple-*
13 *mentation, maintenance and operation of the*
14 *database established in subsection (a).*

15 *SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEARANCE*
16 *INVESTIGATIONS.*

17 (a) *INVESTIGATIONS.—Not later than 12*
18 *months after the date of the enactment of this*
19 *Act, each authorized investigative agency that*
20 *conducts personnel security clearance inves-*
21 *tigations shall use, to the maximum extent*
22 *practicable, available information technology*
23 *and databases to expedite investigative proc-*
24 *esses and to verify standard information sub-*

1 *mitted as part of an application for a security*
2 *clearance.*

3 **(b) INTERIM CLEARANCE.**—*If the application*
4 *of an applicant for an interim clearance has*
5 *been processed using the technology under*
6 *subsection (a), the interim clearances for the*
7 *applicant at the secret, top secret, and special*
8 *access program levels may be granted before*
9 *the completion of the appropriate investiga-*
10 *tion. Any request to process an interim clear-*
11 *ance shall be given priority, and the authority*
12 *granting the interim clearance shall ensure*
13 *that final adjudication on the application is*
14 *made within 90 days after the initial clear-*
15 *ance is granted.*

16 **(c) ON-GOING MONITORING OF INDIVIDUALS**
17 **WITH SECURITY CLEARANCES.**—*(1) Authorized*
18 *investigative agencies and authorized adju-*
19 *dicative agencies shall establish procedures*
20 *for the regular, ongoing verification of per-*
21 *sonnel with security clearances in effect for*
22 *continued access to classified information.*
23 *Such procedures shall include the use of avail-*
24 *able technology to detect, on a regularly recur-*
25 *ring basis, any issues of concern that may*

1 *arise involving such personnel and such ac-*
2 *cess.*

3 (2) *Such regularly recurring verification*
4 *may be used as a basis for terminating a secu-*
5 *rity clearance or access and shall be used in*
6 *periodic reinvestigations to address emerging*
7 *threats and adverse events associated with in-*
8 *dividuals with security clearances in effect to*
9 *the maximum extent practicable.*

10 (3) *If the Director certifies that the na-*
11 *tional security of the United States is not*
12 *harmed by the discontinuation of periodic re-*
13 *investigations, the regularly recurring*
14 *verification under this section may replace*
15 *periodic reinvestigations.*

16 *SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECU-*
17 *RITY CLEARANCE PROCESS.*

18 (a) *60-DAY PERIOD FOR DETERMINATION ON*
19 *CLEARANCES.—Each authorized adjudicative*
20 *agency shall make a determination on an ap-*
21 *plication for a personnel security clearance*
22 *within 60 days after the date of receipt of the*
23 *completed application for a security clearance*
24 *by an authorized investigative agency. The 60-*
25 *day period shall include—*

1 ***(1) a period of not longer than 40 days***
2 ***to complete the investigative phase of the***
3 ***clearance review; and***

4 ***(2) a period of not longer than 20 days***
5 ***to complete the adjudicative phase of the***
6 ***clearance review.***

7 ***(b) EFFECTIVE DATE AND PHASE-IN.—***

8 ***(1) EFFECTIVE DATE.—Subsection (a)***
9 ***shall take effect 5 years after the date of***
10 ***the enactment of this Act.***

11 ***(2) PHASE-IN.—During the period be-***
12 ***ginning on a date not later than 2 years***
13 ***after the date after the enactment of this***
14 ***Act and ending on the date on which sub-***
15 ***section (a) takes effect as specified in***
16 ***paragraph (1), each authorized adjudica-***
17 ***tive agency shall make a determination***
18 ***on an application for a personnel security***
19 ***clearance pursuant to this title within 120***
20 ***days after the date of receipt of the appli-***
21 ***cation for a security clearance by an au-***
22 ***thorized investigative agency. The 120-day***
23 ***period shall include—***

1 (A) *a period of not longer than 90*
2 *days to complete the investigative*
3 *phase of the clearance review; and*

4 (B) *a period of not longer than 30*
5 *days to complete the adjudicative*
6 *phase of the clearance review.*

7 *SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL*
8 *TRANSITION.*

9 (a) *CANDIDATES FOR NATIONAL SECURITY*
10 *POSITIONS.—(1) The President-elect shall sub-*
11 *mit to the Director the names of candidates for*
12 *high-level national security positions, for posi-*
13 *tions at the level of under secretary of execu-*
14 *tive departments and above, as soon as pos-*
15 *sible after the date of the general elections*
16 *held to determine the electors of President and*
17 *Vice President under section 1 or 2 of title 3,*
18 *United States Code.*

19 (2) *The Director shall be responsible for*
20 *the expeditious completion of the background*
21 *investigations necessary to provide appro-*
22 *priate security clearances to the individuals*
23 *who are candidates described under para-*
24 *graph (1) before the date of the inauguration*
25 *of the President-elect as President and the in-*

1 *auguration of the Vice-President-elect as Vice*
2 *President.*

3 **(b) SECURITY CLEARANCES FOR TRANSITION**
4 **TEAM MEMBERS.—***(1) In this section, the term*
5 *“major party” has the meaning provided*
6 *under section 9002(6) of the Internal Revenue*
7 *Code of 1986.*

8 *(2) Each major party candidate for Presi-*
9 *dent, except a candidate who is the incumbent*
10 *President, shall submit, before the date of the*
11 *general presidential election, requests for se-*
12 *curity clearances for prospective transition*
13 *team members who will have a need for access*
14 *to classified information to carry out their re-*
15 *sponsibilities as members of the President-*
16 *elect’s transition team.*

17 *(3) Necessary background investigations*
18 *and eligibility determinations to permit ap-*
19 *propriate prospective transition team mem-*
20 *bers to have access to classified information*
21 *shall be completed, to the fullest extent prac-*
22 *ticable, by the day after the date of the general*
23 *presidential election.*

1 *SEC. 5078. REPORTS.*

2 *Not later than February 15, 2006, and an-*
3 *nually thereafter through 2016, the Director*
4 *shall submit to the appropriate committees of*
5 *Congress a report on the progress made during*
6 *the preceding year toward meeting the re-*
7 *quirements specified in this Act. The report*
8 *shall include—*

9 *(1) the periods of time required by the*
10 *authorized investigative agencies and au-*
11 *thorized adjudicative agencies during the*
12 *year covered by the report for conducting*
13 *investigations, adjudicating cases, and*
14 *granting clearances, from date of submis-*
15 *sion to ultimate disposition and notifica-*
16 *tion to the subject and the subject's em-*
17 *ployer;*

18 *(2) a discussion of any impediments to*
19 *the smooth and timely functioning of the*
20 *implementation of this title; and*

21 *(3) such other information or rec-*
22 *ommendations as the Deputy Director*
23 *deems appropriate.*

1 ***Subtitle G—Emergency Financial***
2 ***Preparedness***

3 ***CHAPTER 1—EMERGENCY PREPAREDNESS***
4 ***FOR FISCAL AUTHORITIES***

5 ***SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY OF***
6 ***THE TREASURY.***

7 ***Subsection (d) of section 306 of title 31,***
8 ***United States Code, is amended by inserting***
9 ***“or employee” after “another officer”.***

10 ***SEC. 5081A. TREASURY SUPPORT FOR FINANCIAL SERVICES***
11 ***INDUSTRY PREPAREDNESS AND RESPONSE.***

12 ***(a) CONGRESSIONAL FINDING.—The Con-***
13 ***gress finds that the Secretary of the Treas-***
14 ***ury—***

15 ***(1) has successfully communicated***
16 ***and coordinated with the private-sector fi-***
17 ***nancial services industry about counter-***
18 ***terrorist financing activities and pre-***
19 ***paredness;***

20 ***(2) has successfully reached out to***
21 ***State and local governments and regional***
22 ***public-private partnerships, such as***
23 ***ChicagoFIRST, that protect employees***
24 ***and critical infrastructure by enhancing***
25 ***communication and coordinating plans***

1 *for disaster preparedness and business*
2 *continuity; and*

3 *(3) has set an example for the Depart-*
4 *ment of Homeland Security and other*
5 *Federal agency partners, whose active*
6 *participation is vital to the overall suc-*
7 *cess of the activities described in para-*
8 *graphs (1) and (2).*

9 ***(b) FURTHER EDUCATION AND PREPARATION***
10 ***EFFORTS.—It is the sense of Congress that the***
11 ***Secretary of the Treasury, in consultation with***
12 ***the Secretary of Homeland Security and other***
13 ***Federal agency partners, should—***

14 ***(1) furnish sufficient personnel and***
15 ***technological and financial resources to***
16 ***foster the formation of public-private sec-***
17 ***tor coalitions, similar to ChicagoFIRST,***
18 ***that, in collaboration with the Depart-***
19 ***ment of Treasury, the Department of***
20 ***Homeland Security, and other Federal***
21 ***agency partners, would educate con-***
22 ***sumers and employees of the financial***
23 ***services industry about domestic counter-***
24 ***terrorist financing activities, including—***

1 ***(A) how the public and private***
2 ***sector organizations involved in***
3 ***counter-terrorist financing activities***
4 ***can help to combat terrorism and si-***
5 ***multaneously protect and preserve the***
6 ***lives and civil liberties of consumers***
7 ***and employees of the financial serv-***
8 ***ices industry; and***

9 ***(B) how consumers and employees***
10 ***of the financial services industry can***
11 ***assist the public and private sector or-***
12 ***ganizations involved in counter-ter-***
13 ***rorist financing activities; and***

14 ***(2) submit annual reports to the Con-***
15 ***gress on Federal efforts, in conjunction***
16 ***with public-private sector coalitions, to***
17 ***educate consumers and employees of the***
18 ***financial services industry about domestic***
19 ***counter-terrorist financing activities.***

1 **CHAPTER 2—MARKET PREPAREDNESS**

2 **Subchapter A—Netting of Financial**

3 **Contracts**

4 *SEC. 5082. SHORT TITLE.*

5 *This subchapter may be cited as the “Fi-*
 6 *nancial Contracts Bankruptcy Reform Act of*
 7 *2004”.*

8 *SEC. 5082A. TREATMENT OF CERTAIN AGREEMENTS BY*
 9 *CONSERVATORS OR RECEIVERS OF INSURED*
 10 *DEPOSITORY INSTITUTIONS.*

11 *(a) DEFINITION OF QUALIFIED FINANCIAL*
 12 *CONTRACT.—*

13 *(1) FDIC-INSURED DEPOSITORY INSTITU-*
 14 *TIONS.—Section 11(e)(8)(D) of the Federal*
 15 *Deposit Insurance Act (12 U.S.C.*
 16 *1821(e)(8)(D)) is amended—*

17 *(A) by striking “subsection—” and*
 18 *inserting “subsection, the following*
 19 *definitions shall apply:”; and*

20 *(B) in clause (i), by inserting “,*
 21 *resolution, or order” after “any simi-*
 22 *lar agreement that the Corporation*
 23 *determines by regulation”.*

1 **(2) INSURED CREDIT UNIONS.—Section**
 2 **207(c)(8)(D) of the Federal Credit Union**
 3 **Act (12 U.S.C. 1787(c)(8)(D)) is amended—**

4 **(A) by striking “subsection—” and**
 5 **inserting “subsection, the following**
 6 **definitions shall apply:”; and**

7 **(B) in clause (i), by inserting “,**
 8 **resolution, or order” after “any simi-**
 9 **lar agreement that the Board deter-**
 10 **mines by regulation”.**

11 **(b) DEFINITION OF SECURITIES CONTRACT.—**

12 **(1) FDIC-INSURED DEPOSITORY INSTITU-**
 13 **TIONS.—Section 11(e)(8)(D)(ii) of the Fed-**
 14 **eral Deposit Insurance Act (12 U.S.C.**
 15 **1821(e)(8)(D)(ii)) is amended to read as**
 16 **follows:**

17 **“(ii) SECURITIES CONTRACT.—**

18 **The term ‘securities contract’—**

19 **“(I) means a contract for**
 20 **the purchase, sale, or loan of a**
 21 **security, a certificate of de-**
 22 **posit, a mortgage loan, or any**
 23 **interest in a mortgage loan, a**
 24 **group or index of securities,**
 25 **certificates of deposit, or mort-**

1 *gage loans or interests therein*
2 *(including any interest therein*
3 *or based on the value thereof)*
4 *or any option on any of the*
5 *foregoing, including any op-*
6 *tion to purchase or sell any*
7 *such security, certificate of de-*
8 *posit, mortgage loan, interest,*
9 *group or index, or option, and*
10 *including any repurchase or*
11 *reverse repurchase trans-*
12 *action on any such security,*
13 *certificate of deposit, mort-*
14 *gage loan, interest, group or*
15 *index, or option;*

16 *“(II) does not include any*
17 *purchase, sale, or repurchase*
18 *obligation under a participa-*
19 *tion in a commercial mortgage*
20 *loan unless the Corporation*
21 *determines by regulation, reso-*
22 *lution, or order to include any*
23 *such agreement within the*
24 *meaning of such term;*

1 ***“(III) means any option en-***
2 ***tered into on a national secu-***
3 ***rities exchange relating to for-***
4 ***ign currencies;***

5 ***“(IV) means the guarantee***
6 ***by or to any securities clearing***
7 ***agency of any settlement of***
8 ***cash, securities, certificates of***
9 ***deposit, mortgage loans or in-***
10 ***terests therein, group or index***
11 ***of securities, certificates of de-***
12 ***posit, or mortgage loans or in-***
13 ***terests therein (including any***
14 ***interest therein or based on***
15 ***the value thereof) or option on***
16 ***any of the foregoing, including***
17 ***any option to purchase or sell***
18 ***any such security, certificate***
19 ***of deposit, mortgage loan, in-***
20 ***terest, group or index, or op-***
21 ***tion;***

22 ***“(V) means any margin***
23 ***loan;***

24 ***“(VI) means any other***
25 ***agreement or transaction that***

1 *is similar to any agreement or*
2 *transaction referred to in this*
3 *clause;*

4 *“(VII) means any combina-*
5 *tion of the agreements or*
6 *transactions referred to in*
7 *this clause;*

8 *“(VIII) means any option*
9 *to enter into any agreement or*
10 *transaction referred to in this*
11 *clause;*

12 *“(IX) means a master*
13 *agreement that provides for*
14 *an agreement or transaction*
15 *referred to in subclause (I),*
16 *(III), (IV), (V), (VI), (VII), or*
17 *(VIII), together with all sup-*
18 *plements to any such master*
19 *agreement, without regard to*
20 *whether the master agreement*
21 *provides for an agreement or*
22 *transaction that is not a secu-*
23 *rities contract under this*
24 *clause, except that the master*
25 *agreement shall be considered*

1 *to be a securities contract*
 2 *under this clause only with re-*
 3 *spect to each agreement or*
 4 *transaction under the master*
 5 *agreement that is referred to*
 6 *in subclause (I), (III), (IV), (V),*
 7 *(VI), (VII), or (VIII); and*

8 *“(X) means any security*
 9 *agreement or arrangement or*
 10 *other credit enhancement re-*
 11 *lated to any agreement or*
 12 *transaction referred to in this*
 13 *clause, including any guar-*
 14 *antee or reimbursement obli-*
 15 *gation in connection with any*
 16 *agreement or transaction re-*
 17 *ferred to in this clause.”.*

18 *(2) INSURED CREDIT UNIONS.—Section*
 19 *207(c)(8)(D)(ii) of the Federal Credit*
 20 *Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is*
 21 *amended to read as follows:*

22 *“(ii) SECURITIES CONTRACT.—*
 23 *The term ‘securities contract’—*

24 *“(I) means a contract for*
 25 *the purchase, sale, or loan of a*

1 *security, a certificate of de-*
2 *posit, a mortgage loan, or any*
3 *interest in a mortgage loan, a*
4 *group or index of securities,*
5 *certificates of deposit, or mort-*
6 *gage loans or interests therein*
7 *(including any interest therein*
8 *or based on the value thereof)*
9 *or any option on any of the*
10 *foregoing, including any op-*
11 *tion to purchase or sell any*
12 *such security, certificate of de-*
13 *posit, mortgage loan, interest,*
14 *group or index, or option, and*
15 *including any repurchase or*
16 *reverse repurchase trans-*
17 *action on any such security,*
18 *certificate of deposit, mort-*
19 *gage loan, interest, group or*
20 *index, or option;*

21 *“(II) does not include any*
22 *purchase, sale, or repurchase*
23 *obligation under a participa-*
24 *tion in a commercial mortgage*
25 *loan unless the Board deter-*

1 *mines by regulation, resolu-*
2 *tion, or order to include any*
3 *such agreement within the*
4 *meaning of such term;*

5 *“(III) means any option en-*
6 *tered into on a national secu-*
7 *rities exchange relating to for-*
8 *ign currencies;*

9 *“(IV) means the guarantee*
10 *by or to any securities clearing*
11 *agency of any settlement of*
12 *cash, securities, certificates of*
13 *deposit, mortgage loans or in-*
14 *terests therein, group or index*
15 *of securities, certificates of de-*
16 *posit, or mortgage loans or in-*
17 *terests therein (including any*
18 *interest therein or based on*
19 *the value thereof) or option on*
20 *any of the foregoing, including*
21 *any option to purchase or sell*
22 *any such security, certificate*
23 *of deposit, mortgage loan, in-*
24 *terest, group or index, or op-*
25 *tion;*

1 “(V) *means any margin*
2 *loan;*

3 “(VI) *means any other*
4 *agreement or transaction that*
5 *is similar to any agreement or*
6 *transaction referred to in this*
7 *clause;*

8 “(VII) *means any combina-*
9 *tion of the agreements or*
10 *transactions referred to in*
11 *this clause;*

12 “(VIII) *means any option*
13 *to enter into any agreement or*
14 *transaction referred to in this*
15 *clause;*

16 “(IX) *means a master*
17 *agreement that provides for*
18 *an agreement or transaction*
19 *referred to in subclause (I),*
20 *(III), (IV), (V), (VI), (VII), or*
21 *(VIII), together with all sup-*
22 *plements to any such master*
23 *agreement, without regard to*
24 *whether the master agreement*
25 *provides for an agreement or*

1 *transaction that is not a secu-*
2 *rities contract under this*
3 *clause, except that the master*
4 *agreement shall be considered*
5 *to be a securities contract*
6 *under this clause only with re-*
7 *spect to each agreement or*
8 *transaction under the master*
9 *agreement that is referred to*
10 *in subclause (I), (III), (IV), (V),*
11 *(VI), (VII), or (VIII); and*

12 *“(X) means any security*
13 *agreement or arrangement or*
14 *other credit enhancement re-*
15 *lated to any agreement or*
16 *transaction referred to in this*
17 *clause, including any guar-*
18 *antee or reimbursement obli-*
19 *gation in connection with any*
20 *agreement or transaction re-*
21 *ferred to in this clause.”.*

22 **(c) DEFINITION OF COMMODITY CONTRACT.—**

23 **(1) FDIC-INSURED DEPOSITORY INSTITU-**
24 **TIONS.—Section 11(e)(8)(D)(iii) of the Fed-**
25 **eral Deposit Insurance Act (12 U.S.C.**

1 ***1821(e)(8)(D)(iii)) is amended to read as***
2 ***follows:***

3 ***“(iii) COMMODITY CONTRACT.—***
4 ***The term ‘commodity contract’***
5 ***means—***

6 ***“(I) with respect to a fu-***
7 ***tures commission merchant, a***
8 ***contract for the purchase or***
9 ***sale of a commodity for future***
10 ***delivery on, or subject to the***
11 ***rules of, a contract market or***
12 ***board of trade;***

13 ***“(II) with respect to a for-***
14 ***ign futures commission mer-***
15 ***chant, a foreign future;***

16 ***“(III) with respect to a le-***
17 ***verage transaction merchant,***
18 ***a leverage transaction;***

19 ***“(IV) with respect to a***
20 ***clearing organization, a con-***
21 ***tract for the purchase or sale***
22 ***of a commodity for future de-***
23 ***livery on, or subject to the***
24 ***rules of, a contract market or***
25 ***board of trade that is cleared***

1 *by such clearing organization,*
2 *or commodity option traded*
3 *on, or subject to the rules of, a*
4 *contract market or board of*
5 *trade that is cleared by such*
6 *clearing organization;*

7 *“(V) with respect to a com-*
8 *modity options dealer, a com-*
9 *modity option;*

10 *“(VI) any other agreement*
11 *or transaction that is similar*
12 *to any agreement or trans-*
13 *action referred to in this*
14 *clause;*

15 *“(VII) any combination of*
16 *the agreements or trans-*
17 *actions referred to in this*
18 *clause;*

19 *“(VIII) any option to enter*
20 *into any agreement or trans-*
21 *action referred to in this*
22 *clause;*

23 *“(IX) a master agreement*
24 *that provides for an agree-*
25 *ment or transaction referred*

1 *to in subclause (I), (II), (III),*
2 *(IV), (V), (VI), (VII), or (VIII),*
3 *together with all supplements*
4 *to any such master agreement,*
5 *without regard to whether the*
6 *master agreement provides for*
7 *an agreement or transaction*
8 *that is not a commodity con-*
9 *tract under this clause, except*
10 *that the master agreement*
11 *shall be considered to be a*
12 *commodity contract under this*
13 *clause only with respect to*
14 *each agreement or transaction*
15 *under the master agreement*
16 *that is referred to in subclause*
17 *(I), (II), (III), (IV), (V), (VI),*
18 *(VII), or (VIII); or*

19 *“(X) any security agree-*
20 *ment or arrangement or other*
21 *credit enhancement related to*
22 *any agreement or transaction*
23 *referred to in this clause, in-*
24 *cluding any guarantee or re-*
25 *imbursement obligation in*

1 *connection with any agree-*
2 *ment or transaction referred*
3 *to in this clause.”.*

4 **(2) INSURED CREDIT UNIONS.—Section**
5 **207(c)(8)(D)(iii) of the Federal Credit**
6 **Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is**
7 **amended to read as follows:**

8 **“(iii) COMMODITY CONTRACT.—**
9 **The term ‘commodity contract’**
10 **means—**

11 **“(I) with respect to a fu-**
12 **tures commission merchant, a**
13 **contract for the purchase or**
14 **sale of a commodity for future**
15 **delivery on, or subject to the**
16 **rules of, a contract market or**
17 **board of trade;**

18 **“(II) with respect to a for-**
19 **ign futures commission mer-**
20 **chant, a foreign future;**

21 **“(III) with respect to a le-**
22 **verage transaction merchant,**
23 **a leverage transaction;**

24 **“(IV) with respect to a**
25 **clearing organization, a con-**

1 *tract for the purchase or sale*
2 *of a commodity for future de-*
3 *livery on, or subject to the*
4 *rules of, a contract market or*
5 *board of trade that is cleared*
6 *by such clearing organization,*
7 *or commodity option traded*
8 *on, or subject to the rules of, a*
9 *contract market or board of*
10 *trade that is cleared by such*
11 *clearing organization;*

12 *“(V) with respect to a com-*
13 *modity options dealer, a com-*
14 *modity option;*

15 *“(VI) any other agreement*
16 *or transaction that is similar*
17 *to any agreement or trans-*
18 *action referred to in this*
19 *clause;*

20 *“(VII) any combination of*
21 *the agreements or trans-*
22 *actions referred to in this*
23 *clause;*

24 *“(VIII) any option to enter*
25 *into any agreement or trans-*

1 *action referred to in this*
2 *clause;*

3 “(IX) *a master agreement*
4 *that provides for an agree-*
5 *ment or transaction referred*
6 *to in subclause (I), (II), (III),*
7 *(IV), (V), (VI), (VII), or (VIII),*
8 *together with all supplements*
9 *to any such master agreement,*
10 *without regard to whether the*
11 *master agreement provides for*
12 *an agreement or transaction*
13 *that is not a commodity con-*
14 *tract under this clause, except*
15 *that the master agreement*
16 *shall be considered to be a*
17 *commodity contract under this*
18 *clause only with respect to*
19 *each agreement or transaction*
20 *under the master agreement*
21 *that is referred to in subclause*
22 *(I), (II), (III), (IV), (V), (VI),*
23 *(VII), or (VIII); or*

24 “(X) *any security agree-*
25 *ment or arrangement or other*

1 *credit enhancement related to*
 2 *any agreement or transaction*
 3 *referred to in this clause, in-*
 4 *cluding any guarantee or re-*
 5 *imbursement obligation in*
 6 *connection with any agree-*
 7 *ment or transaction referred*
 8 *to in this clause.”.*

9 ***(d) DEFINITION OF FORWARD CONTRACT.—***

10 ***(1) FDIC-INSURED DEPOSITORY INSTITU-***
 11 ***TIONS.—Section 11(e)(8)(D)(iv) of the Fed-***
 12 ***eral Deposit Insurance Act (12 U.S.C.***
 13 ***1821(e)(8)(D)(iv)) is amended to read as***
 14 ***follows:***

15 ***“(iv) FORWARD CONTRACT.—The***
 16 ***term ‘forward contract’ means—***

17 ***“(I) a contract (other than***
 18 ***a commodity contract) for the***
 19 ***purchase, sale, or transfer of a***
 20 ***commodity or any similar***
 21 ***good, article, service, right, or***
 22 ***interest which is presently or***
 23 ***in the future becomes the sub-***
 24 ***ject of dealing in the forward***
 25 ***contract trade, or product or***

1 *by-product thereof, with a ma-*
2 *turity date more than 2 days*
3 *after the date the contract is*
4 *entered into, including, a re-*
5 *purchase transaction, reverse*
6 *repurchase transaction, con-*
7 *signment, lease, swap, hedge*
8 *transaction, deposit, loan, op-*
9 *tion, allocated transaction,*
10 *unallocated transaction, or*
11 *any other similar agreement;*

12 *“(II) any combination of*
13 *agreements or transactions re-*
14 *ferred to in subclauses (I) and*
15 *(III);*

16 *“(III) any option to enter*
17 *into any agreement or trans-*
18 *action referred to in subclause*
19 *(I) or (II);*

20 *“(IV) a master agreement*
21 *that provides for an agree-*
22 *ment or transaction referred*
23 *to in subclauses (I), (II), or*
24 *(III), together with all supple-*
25 *ments to any such master*

1 *agreement, without regard to*
2 *whether the master agreement*
3 *provides for an agreement or*
4 *transaction that is not a for-*
5 *ward contract under this*
6 *clause, except that the master*
7 *agreement shall be considered*
8 *to be a forward contract under*
9 *this clause only with respect to*
10 *each agreement or transaction*
11 *under the master agreement*
12 *that is referred to in subclause*
13 *(I), (II), or (III); or*

14 *“(V) any security agree-*
15 *ment or arrangement or other*
16 *credit enhancement related to*
17 *any agreement or transaction*
18 *referred to in subclause (I),*
19 *(II), (III), or (IV), including*
20 *any guarantee or reimburse-*
21 *ment obligation in connection*
22 *with any agreement or trans-*
23 *action referred to in any such*
24 *subclause.”.*

1 **(2) INSURED CREDIT UNIONS.—Section**
2 **207(c)(8)(D)(iv) of the Federal Credit**
3 **Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is**
4 **amended to read as follows:**

5 **“(iv) FORWARD CONTRACT.—The**
6 **term ‘forward contract’ means—**

7 **“(I) a contract (other than**
8 **a commodity contract) for the**
9 **purchase, sale, or transfer of a**
10 **commodity or any similar**
11 **good, article, service, right, or**
12 **interest which is presently or**
13 **in the future becomes the sub-**
14 **ject of dealing in the forward**
15 **contract trade, or product or**
16 **by-product thereof, with a ma-**
17 **turity date more than 2 days**
18 **after the date the contract is**
19 **entered into, including, a re-**
20 **purchase transaction, reverse**
21 **repurchase transaction, con-**
22 **signment, lease, swap, hedge**
23 **transaction, deposit, loan, op-**
24 **tion, allocated transaction,**

1 *unallocated transaction, or*
2 *any other similar agreement;*

3 *“(II) any combination of*
4 *agreements or transactions re-*
5 *ferred to in subclauses (I) and*
6 *(III);*

7 *“(III) any option to enter*
8 *into any agreement or trans-*
9 *action referred to in subclause*
10 *(I) or (II);*

11 *“(IV) a master agreement*
12 *that provides for an agree-*
13 *ment or transaction referred*
14 *to in subclauses (I), (II), or*
15 *(III), together with all supple-*
16 *ments to any such master*
17 *agreement, without regard to*
18 *whether the master agreement*
19 *provides for an agreement or*
20 *transaction that is not a for-*
21 *ward contract under this*
22 *clause, except that the master*
23 *agreement shall be considered*
24 *to be a forward contract under*
25 *this clause only with respect to*

1 *each agreement or transaction*
 2 *under the master agreement*
 3 *that is referred to in subclause*
 4 *(I), (II), or (III); or*

5 *“(V) any security agree-*
 6 *ment or arrangement or other*
 7 *credit enhancement related to*
 8 *any agreement or transaction*
 9 *referred to in subclause (I),*
 10 *(II), (III), or (IV), including*
 11 *any guarantee or reimburse-*
 12 *ment obligation in connection*
 13 *with any agreement or trans-*
 14 *action referred to in any such*
 15 *subclause.”.*

16 *(e) DEFINITION OF REPURCHASE AGREE-*
 17 *MENT.—*

18 *(1) FDIC-INSURED DEPOSITORY INSTITU-*
 19 *TIONS.—Section 11(e)(8)(D)(v) of the Fed-*
 20 *eral Deposit Insurance Act (12 U.S.C.*
 21 *1821(e)(8)(D)(v)) is amended to read as*
 22 *follows:*

23 *“(v) REPURCHASE AGREEMENT.—*
 24 *The term ‘repurchase agreement’*

1 *(which definition also applies to a*
2 *reverse repurchase agreement)—*

3 *“(I) means an agreement,*
4 *including related terms, which*
5 *provides for the transfer of*
6 *one or more certificates of de-*
7 *posit, mortgage-related securi-*
8 *ties (as such term is defined in*
9 *the Securities Exchange Act of*
10 *1934), mortgage loans, inter-*
11 *ests in mortgage-related secu-*
12 *rities or mortgage loans, eligi-*
13 *ble bankers’ acceptances,*
14 *qualified foreign government*
15 *securities or securities that*
16 *are direct obligations of, or*
17 *that are fully guaranteed by,*
18 *the United States or any agen-*
19 *cy of the United States against*
20 *the transfer of funds by the*
21 *transferee of such certificates*
22 *of deposit, eligible bankers’ ac-*
23 *ceptances, securities, mort-*
24 *gage loans, or interests with a*
25 *simultaneous agreement by*

1 *such transferee to transfer to*
2 *the transferor thereof certifi-*
3 *cates of deposit, eligible bank-*
4 *ers' acceptances, securities,*
5 *mortgage loans, or interests as*
6 *described above, at a date cer-*
7 *tain not later than 1 year*
8 *after such transfers or on de-*
9 *mand, against the transfer of*
10 *funds, or any other similar*
11 *agreement;*

12 *“(II) does not include any*
13 *repurchase obligation under a*
14 *participation in a commercial*
15 *mortgage loan unless the Cor-*
16 *poration determines by regula-*
17 *tion, resolution, or order to in-*
18 *clude any such participation*
19 *within the meaning of such*
20 *term;*

21 *“(III) means any combina-*
22 *tion of agreements or trans-*
23 *actions referred to in sub-*
24 *clauses (I) and (IV);*

1 “(IV) means any option to
2 enter into any agreement or
3 transaction referred to in sub-
4 clause (I) or (III);

5 “(V) means a master
6 agreement that provides for
7 an agreement or transaction
8 referred to in subclause (I),
9 (III), or (IV), together with all
10 supplements to any such mas-
11 ter agreement, without regard
12 to whether the master agree-
13 ment provides for an agree-
14 ment or transaction that is
15 not a repurchase agreement
16 under this clause, except that
17 the master agreement shall be
18 considered to be a repurchase
19 agreement under this sub-
20 clause only with respect to
21 each agreement or transaction
22 under the master agreement
23 that is referred to in subclause
24 (I), (III), or (IV); and

1 “(VI) means any security
2 agreement or arrangement or
3 other credit enhancement re-
4 lated to any agreement or
5 transaction referred to in sub-
6 clause (I), (III), (IV), or (V), in-
7 cluding any guarantee or re-
8 imbursement obligation in
9 connection with any agree-
10 ment or transaction referred
11 to in any such subclause.

12 For purposes of this clause, the
13 term ‘qualified foreign govern-
14 ment security’ means a security
15 that is a direct obligation of, or
16 that is fully guaranteed by, the
17 central government of a member
18 of the Organization for Economic
19 Cooperation and Development (as
20 determined by regulation or order
21 adopted by the appropriate Fed-
22 eral banking authority).”.

23 (2) **INSURED CREDIT UNIONS.**—Section
24 207(c)(8)(D)(v) of the Federal Credit

1 *Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is*
2 *amended to read as follows:*

3 *“(v) REPURCHASE AGREEMENT.—*
4 *The term ‘repurchase agreement’*
5 *(which definition also applies to a*
6 *reverse repurchase agreement)—*

7 *“(I) means an agreement,*
8 *including related terms, which*
9 *provides for the transfer of*
10 *one or more certificates of de-*
11 *posit, mortgage-related securi-*
12 *ties (as such term is defined in*
13 *the Securities Exchange Act of*
14 *1934), mortgage loans, inter-*
15 *ests in mortgage-related secu-*
16 *rities or mortgage loans, eligi-*
17 *ble bankers’ acceptances,*
18 *qualified foreign government*
19 *securities or securities that*
20 *are direct obligations of, or*
21 *that are fully guaranteed by,*
22 *the United States or any agen-*
23 *cy of the United States against*
24 *the transfer of funds by the*
25 *transferee of such certificates*

1 *of deposit, eligible bankers' ac-*
2 *ceptances, securities, mort-*
3 *gage loans, or interests with a*
4 *simultaneous agreement by*
5 *such transferee to transfer to*
6 *the transferor thereof certifi-*
7 *cates of deposit, eligible bank-*
8 *ers' acceptances, securities,*
9 *mortgage loans, or interests as*
10 *described above, at a date cer-*
11 *tain not later than 1 year*
12 *after such transfers or on de-*
13 *mand, against the transfer of*
14 *funds, or any other similar*
15 *agreement;*

16 *“(II) does not include any*
17 *repurchase obligation under a*
18 *participation in a commercial*
19 *mortgage loan unless the*
20 *Board determines by regula-*
21 *tion, resolution, or order to in-*
22 *clude any such participation*
23 *within the meaning of such*
24 *term;*

1 ***“(III) means any combina-***
2 ***tion of agreements or trans-***
3 ***actions referred to in sub-***
4 ***clauses (I) and (IV);***

5 ***“(IV) means any option to***
6 ***enter into any agreement or***
7 ***transaction referred to in sub-***
8 ***clause (I) or (III);***

9 ***“(V) means a master***
10 ***agreement that provides for***
11 ***an agreement or transaction***
12 ***referred to in subclause (I),***
13 ***(III), or (IV), together with all***
14 ***supplements to any such mas-***
15 ***ter agreement, without regard***
16 ***to whether the master agree-***
17 ***ment provides for an agree-***
18 ***ment or transaction that is***
19 ***not a repurchase agreement***
20 ***under this clause, except that***
21 ***the master agreement shall be***
22 ***considered to be a repurchase***
23 ***agreement under this sub-***
24 ***clause only with respect to***
25 ***each agreement or transaction***

1 *under the master agreement*
2 *that is referred to in subclause*
3 *(I), (III), or (IV); and*

4 *“(VI) means any security*
5 *agreement or arrangement or*
6 *other credit enhancement re-*
7 *lated to any agreement or*
8 *transaction referred to in sub-*
9 *clause (I), (III), (IV), or (V), in-*
10 *cluding any guarantee or re-*
11 *imbursement obligation in*
12 *connection with any agree-*
13 *ment or transaction referred*
14 *to in any such subclause.*

15 *For purposes of this clause, the*
16 *term ‘qualified foreign govern-*
17 *ment security’ means a security*
18 *that is a direct obligation of, or*
19 *that is fully guaranteed by, the*
20 *central government of a member*
21 *of the Organization for Economic*
22 *Cooperation and Development (as*
23 *determined by regulation or order*
24 *adopted by the appropriate Fed-*
25 *eral banking authority).”.*

1 **(f) DEFINITION OF SWAP AGREEMENT.—**

2 **(1) FDIC-INSURED DEPOSITORY INSTITU-**
3 **TIONS.—Section 11(e)(8)(D)(vi) of the Fed-**
4 **eral Deposit Insurance Act (12 U.S.C.**
5 **1821(e)(8)(D)(vi)) is amended to read as**
6 **follows:**

7 **“(vi) SWAP AGREEMENT.—The**
8 **term ‘swap agreement’ means—**

9 **“(I) any agreement, includ-**
10 **ing the terms and conditions**
11 **incorporated by reference in**
12 **any such agreement, which is**
13 **an interest rate swap, option,**
14 **future, or forward agreement,**
15 **including a rate floor, rate**
16 **cap, rate collar, cross-cur-**
17 **rency rate swap, and basis**
18 **swap; a spot, same day-tomor-**
19 **row, tomorrow-next, forward,**
20 **or other foreign exchange or**
21 **precious metals agreement; a**
22 **currency swap, option, future,**
23 **or forward agreement; an eq-**
24 **uity index or equity swap, op-**
25 **tion, future, or forward agree-**

1 *ment; a debt index or debt*
2 *swap, option, future, or for-*
3 *ward agreement; a total re-*
4 *turn, credit spread or credit*
5 *swap, option, future, or for-*
6 *ward agreement; a commodity*
7 *index or commodity swap, op-*
8 *tion, future, or forward agree-*
9 *ment; or a weather swap,*
10 *weather derivative, or weather*
11 *option;*

12 *“(II) any agreement or*
13 *transaction that is similar to*
14 *any other agreement or trans-*
15 *action referred to in this*
16 *clause and that is of a type*
17 *that has been, is presently, or*
18 *in the future becomes, the sub-*
19 *ject of recurrent dealings in*
20 *the swap markets (including*
21 *terms and conditions incor-*
22 *porated by reference in such*
23 *agreement) and that is a for-*
24 *ward, swap, future, or option*
25 *on one or more rates, cur-*

1 *rencies, commodities, equity*
2 *securities or other equity in-*
3 *struments, debt securities or*
4 *other debt instruments, quan-*
5 *titative measures associated*
6 *with an occurrence, extent of*
7 *an occurrence, or contingency*
8 *associated with a financial,*
9 *commercial, or economic con-*
10 *sequence, or economic or fi-*
11 *nancial indices or measures of*
12 *economic or financial risk or*
13 *value;*

14 “(III) *any combination of*
15 *agreements or transactions re-*
16 *ferred to in this clause;*

17 “(IV) *any option to enter*
18 *into any agreement or trans-*
19 *action referred to in this*
20 *clause;*

21 “(V) *a master agreement*
22 *that provides for an agree-*
23 *ment or transaction referred*
24 *to in subclause (I), (II), (III),*
25 *or (IV), together with all sup-*

1 *plements to any such master*
2 *agreement, without regard to*
3 *whether the master agreement*
4 *contains an agreement or*
5 *transaction that is not a swap*
6 *agreement under this clause,*
7 *except that the master agree-*
8 *ment shall be considered to be*
9 *a swap agreement under this*
10 *clause only with respect to*
11 *each agreement or transaction*
12 *under the master agreement*
13 *that is referred to in subclause*
14 *(I), (II), (III), or (IV); and*

15 *“(VI) any security agree-*
16 *ment or arrangement or other*
17 *credit enhancement related to*
18 *any agreements or trans-*
19 *actions referred to in sub-*
20 *clause (I), (II), (III), (IV), or*
21 *(V), including any guarantee*
22 *or reimbursement obligation*
23 *in connection with any agree-*
24 *ment or transaction referred*
25 *to in any such subclause.*

1 *Such term is applicable for pur-*
2 *poses of this subsection only and*
3 *shall not be construed or applied*
4 *so as to challenge or affect the*
5 *characterization, definition, or*
6 *treatment of any swap agreement*
7 *under any other statute, regula-*
8 *tion, or rule, including the Securi-*
9 *ties Act of 1933, the Securities Ex-*
10 *change Act of 1934, the Public*
11 *Utility Holding Company Act of*
12 *1935, the Trust Indenture Act of*
13 *1939, the Investment Company Act*
14 *of 1940, the Investment Advisers*
15 *Act of 1940, the Securities Investor*
16 *Protection Act of 1970, the Com-*
17 *modity Exchange Act, the Gramm-*
18 *Leach-Bliley Act, and the Legal*
19 *Certainty for Bank Products Act*
20 *of 2000.”.*

21 (2) *INSURED CREDIT UNIONS.—Section*
22 *207(c)(8)(D) of the Federal Credit Union*
23 *Act (12 U.S.C. 1787(c)(8)(D)) is amended*
24 *by adding at the end the following new*
25 *clause:*

1 “(vi) **SWAP AGREEMENT.**—*The*
2 *term ‘swap agreement’ means—*

3 “(I) *any agreement, includ-*
4 *ing the terms and conditions*
5 *incorporated by reference in*
6 *any such agreement, which is*
7 *an interest rate swap, option,*
8 *future, or forward agreement,*
9 *including a rate floor, rate*
10 *cap, rate collar, cross-cur-*
11 *rency rate swap, and basis*
12 *swap; a spot, same day-tomor-*
13 *row, tomorrow-next, forward,*
14 *or other foreign exchange or*
15 *precious metals agreement; a*
16 *currency swap, option, future,*
17 *or forward agreement; an eq-*
18 *uity index or equity swap, op-*
19 *tion, future, or forward agree-*
20 *ment; a debt index or debt*
21 *swap, option, future, or for-*
22 *ward agreement; a total re-*
23 *turn, credit spread or credit*
24 *swap, option, future, or for-*
25 *ward agreement; a commodity*

1 *index or commodity swap, op-*
2 *tion, future, or forward agree-*
3 *ment; or a weather swap,*
4 *weather derivative, or weather*
5 *option;*

6 “(II) *any agreement or*
7 *transaction that is similar to*
8 *any other agreement or trans-*
9 *action referred to in this*
10 *clause and that is of a type*
11 *that has been, is presently, or*
12 *in the future becomes, the sub-*
13 *ject of recurrent dealings in*
14 *the swap markets (including*
15 *terms and conditions incor-*
16 *porated by reference in such*
17 *agreement) and that is a for-*
18 *ward, swap, future, or option*
19 *on one or more rates, cur-*
20 *rencies, commodities, equity*
21 *securities or other equity in-*
22 *struments, debt securities or*
23 *other debt instruments, quan-*
24 *titative measures associated*
25 *with an occurrence, extent of*

1 *an occurrence, or contingency*
2 *associated with a financial,*
3 *commercial, or economic con-*
4 *sequence, or economic or fi-*
5 *nancial indices or measures of*
6 *economic or financial risk or*
7 *value;*

8 *“(III) any combination of*
9 *agreements or transactions re-*
10 *ferred to in this clause;*

11 *“(IV) any option to enter*
12 *into any agreement or trans-*
13 *action referred to in this*
14 *clause;*

15 *“(V) a master agreement*
16 *that provides for an agree-*
17 *ment or transaction referred*
18 *to in subclause (I), (II), (III),*
19 *or (IV), together with all sup-*
20 *plements to any such master*
21 *agreement, without regard to*
22 *whether the master agreement*
23 *contains an agreement or*
24 *transaction that is not a swap*
25 *agreement under this clause,*

1 *except that the master agree-*
2 *ment shall be considered to be*
3 *a swap agreement under this*
4 *clause only with respect to*
5 *each agreement or transaction*
6 *under the master agreement*
7 *that is referred to in subclause*
8 *(I), (II), (III), or (IV); and*

9 *“(VI) any security agree-*
10 *ment or arrangement or other*
11 *credit enhancement related to*
12 *any agreements or trans-*
13 *actions referred to in sub-*
14 *clause (I), (II), (III), (IV), or*
15 *(V), including any guarantee*
16 *or reimbursement obligation*
17 *in connection with any agree-*
18 *ment or transaction referred*
19 *to in any such subclause.*

20 *Such term is applicable for pur-*
21 *poses of this subsection only and*
22 *shall not be construed or applied*
23 *so as to challenge or affect the*
24 *characterization, definition, or*
25 *treatment of any swap agreement*

1 *under any other statute, regula-*
 2 *tion, or rule, including the Securi-*
 3 *ties Act of 1933, the Securities Ex-*
 4 *change Act of 1934, the Public*
 5 *Utility Holding Company Act of*
 6 *1935, the Trust Indenture Act of*
 7 *1939, the Investment Company Act*
 8 *of 1940, the Investment Advisers*
 9 *Act of 1940, the Securities Investor*
 10 *Protection Act of 1970, the Com-*
 11 *modity Exchange Act, the Gramm-*
 12 *Leach-Bliley Act, and the Legal*
 13 *Certainty for Bank Products Act*
 14 *of 2000.”.*

15 ***(g) DEFINITION OF TRANSFER.—***

16 ***(1) FDIC-INSURED DEPOSITORY INSTITU-***
 17 ***TIONS.—Section 11(e)(8)(D)(viii) of the***
 18 ***Federal Deposit Insurance Act (12 U.S.C.***
 19 ***1821(e)(8)(D)(viii)) is amended to read as***
 20 ***follows:***

21 ***“(viii) TRANSFER.—The term***
 22 ***‘transfer’ means every mode, direct***
 23 ***or indirect, absolute or condi-***
 24 ***tional, voluntary or involuntary,***
 25 ***of disposing of or parting with***

1 *property or with an interest in*
 2 *property, including retention of*
 3 *title as a security interest and*
 4 *foreclosure of the depository insti-*
 5 *tution's equity of redemption.”.*

6 **(2) INSURED CREDIT UNIONS.—Section**
 7 **207(c)(8)(D) of the Federal Credit Union**
 8 **Act (12 U.S.C. 1787(c)(8)(D)) (as amended**
 9 **by subsection (f) of this section) is amend-**
 10 **ed by adding at the end the following new**
 11 **clause:**

12 **“(viii) TRANSFER.—The term**
 13 **‘transfer’ means every mode, direct**
 14 **or indirect, absolute or condi-**
 15 **tional, voluntary or involuntary,**
 16 **of disposing of or parting with**
 17 **property or with an interest in**
 18 **property, including retention of**
 19 **title as a security interest and**
 20 **foreclosure of the depository insti-**
 21 **tution's equity of redemption.”.**

22 **(h) TREATMENT OF QUALIFIED FINANCIAL**
 23 **CONTRACTS.—**

24 **(1) FDIC-INSURED DEPOSITORY INSTITU-**
 25 **TIONS.—Section 11(e)(8) of the Federal De-**

1 *posit Insurance Act (12 U.S.C. 1821(e)(8))*
2 *is amended—*

3 *(A) in subparagraph (A)—*

4 *(i) by striking “paragraph*
5 *(10)” and inserting “paragraphs*
6 *(9) and (10)”;*

7 *(ii) in clause (i), by striking*
8 *“to cause the termination or liq-*
9 *uidation” and inserting “such per-*
10 *son has to cause the termination,*
11 *liquidation, or acceleration”; and*

12 *(iii) by striking clause (ii) and*
13 *inserting the following new*
14 *clause:*

15 *“(ii) any right under any secu-*
16 *rity agreement or arrangement or*
17 *other credit enhancement related*
18 *to one or more qualified financial*
19 *contracts described in clause (i);”;*
20 *and*

21 *(B) in subparagraph (E), by strik-*
22 *ing clause (ii) and inserting the fol-*
23 *lowing:*

24 *“(ii) any right under any secu-*
25 *rity agreement or arrangement or*

1 *other credit enhancement related*
2 *to one or more qualified financial*
3 *contracts described in clause (i);”.*

4 **(2) INSURED CREDIT UNIONS.—Section**
5 **207(c)(8) of the Federal Credit Union Act**
6 **(12 U.S.C. 1787(c)(8)) is amended—**

7 **(A) in subparagraph (A)—**

8 **(i) by striking “paragraph**
9 **(12)” and inserting “paragraphs**
10 **(9) and (10)”;**

11 **(ii) in clause (i), by striking**
12 **“to cause the termination or liq-**
13 **uidation” and inserting “such per-**
14 **son has to cause the termination,**
15 **liquidation, or acceleration”; and**

16 **(iii) by striking clause (ii) and**
17 **inserting the following new**
18 **clause:**

19 **“(ii) any right under any secu-**
20 **rity agreement or arrangement or**
21 **other credit enhancement related**
22 **to 1 or more qualified financial**
23 **contracts described in clause (i);”;**
24 **and**

1 ***(B) in subparagraph (E), by striking***
2 ***clause (ii) and inserting the following***
3 ***new clause:***

4 ***“(ii) any right under any security***
5 ***agreement or arrangement or***
6 ***other credit enhancement related***
7 ***to 1 or more qualified financial***
8 ***contracts described in clause (i);”.***

9 ***(i) AVOIDANCE OF TRANSFERS.—***

10 ***(1) FDIC-INSURED DEPOSITORY INSTITU-***
11 ***TIONS.—Section 11(e)(8)(C)(i) of the Fed-***
12 ***eral Deposit Insurance Act (12 U.S.C.***
13 ***1821(e)(8)(C)(i)) is amended by inserting***
14 ***“section 5242 of the Revised Statutes of***
15 ***the United States or any other Federal or***
16 ***State law relating to the avoidance of***
17 ***preferential or fraudulent transfers,” be-***
18 ***fore “the Corporation”.***

19 ***(2) INSURED CREDIT UNIONS.—Section***
20 ***207(c)(8)(C)(i) of the Federal Credit Union***
21 ***Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended***
22 ***by inserting “section 5242 of the Revised***
23 ***Statutes of the United States or any other***
24 ***Federal or State law relating to the avoid-***

1 *ance of preferential or fraudulent trans-*
 2 *fers,” before “the Board”.*

3 *SEC. 5082B. AUTHORITY OF THE FDIC AND NCUAB WITH RE-*
 4 *SPECT TO FAILED AND FAILING INSTITU-*
 5 *TIONS.*

6 *(a) FEDERAL DEPOSIT INSURANCE CORPORA-*
 7 *TION.—*

8 *(1) IN GENERAL.—Section 11(e)(8) of the*
 9 *Federal Deposit Insurance Act (12 U.S.C.*
 10 *1821(e)(8)) is amended—*

11 *(A) in subparagraph (E), by strik-*
 12 *ing “other than paragraph (12) of this*
 13 *subsection, subsection (d)(9)” and in-*
 14 *serting “other than subsections (d)(9)*
 15 *and (e)(10)”;* and

16 *(B) by adding at the end the fol-*
 17 *lowing new subparagraphs:*

18 *“(F) CLARIFICATION.—No provision*
 19 *of law shall be construed as limiting*
 20 *the right or power of the Corporation,*
 21 *or authorizing any court or agency to*
 22 *limit or delay, in any manner, the*
 23 *right or power of the Corporation to*
 24 *transfer any qualified financial con-*
 25 *tract in accordance with paragraphs*

1 ***(9) and (10) of this subsection or to***
2 ***disaffirm or repudiate any such con-***
3 ***tract in accordance with subsection***
4 ***(e)(1) of this section.***

5 ***“(G) WALKAWAY CLAUSES NOT EFFEC-***
6 ***TIVE.—***

7 ***“(i) IN GENERAL.—Notwith-***
8 ***standing the provisions of sub-***
9 ***paragraphs (A) and (E), and sec-***
10 ***tions 403 and 404 of the Federal***
11 ***Deposit Insurance Corporation***
12 ***Improvement Act of 1991, no***
13 ***walkaway clause shall be enforce-***
14 ***able in a qualified financial con-***
15 ***tract of an insured depository in-***
16 ***stitution in default.***

17 ***“(ii) WALKAWAY CLAUSE DE-***
18 ***FINED.—For purposes of this sub-***
19 ***paragraph, the term ‘walkaway***
20 ***clause’ means a provision in a***
21 ***qualified financial contract that,***
22 ***after calculation of a value of a***
23 ***party’s position or an amount due***
24 ***to or from 1 of the parties in ac-***
25 ***cordance with its terms upon ter-***

1 *mination, liquidation, or accelera-*
 2 *tion of the qualified financial con-*
 3 *tract, either does not create a pay-*
 4 *ment obligation of a party or ex-*
 5 *tinguishes a payment obligation of*
 6 *a party in whole or in part solely*
 7 *because of such party's status as a*
 8 *nondefaulting party.”.*

9 (2) **TECHNICAL AND CONFORMING AMEND-**
 10 **MENT.—Section 11(e)(12)(A) of the Federal**
 11 **Deposit Insurance Act (12 U.S.C.**
 12 **1821(e)(12)(A)) is amended by inserting**
 13 **“or the exercise of rights or powers by”**
 14 **after “the appointment of”.**

15 (b) **NATIONAL CREDIT UNION ADMINISTRA-**
 16 **TION BOARD.—**

17 (1) **IN GENERAL.—Section 207(c)(8) of**
 18 **the Federal Credit Union Act (12 U.S.C.**
 19 **1787(c)(8)) is amended—**

20 (A) **in subparagraph (E) (as**
 21 **amended by section 2(h)), by striking**
 22 **“other than paragraph (12) of this**
 23 **subsection, subsection (b)(9)” and in-**
 24 **serting “other than subsections (b)(9)**
 25 **and (c)(10)”;** **and**

1 ***(B) by adding at the end the fol-***
2 ***lowing new subparagraphs:***

3 ***“(F) CLARIFICATION.—No provision***
4 ***of law shall be construed as limiting***
5 ***the right or power of the Board, or au-***
6 ***thorizing any court or agency to limit***
7 ***or delay, in any manner, the right or***
8 ***power of the Board to transfer any***
9 ***qualified financial contract in ac-***
10 ***cordance with paragraphs (9) and***
11 ***(10) of this subsection or to disaffirm***
12 ***or repudiate any such contract in ac-***
13 ***cordance with subsection (c)(1) of this***
14 ***section.***

15 ***“(G) WALKAWAY CLAUSES NOT EFFEC-***
16 ***TIVE.—***

17 ***“(i) IN GENERAL.—Notwith-***
18 ***standing the provisions of sub-***
19 ***paragraphs (A) and (E), and sec-***
20 ***tions 403 and 404 of the Federal***
21 ***Deposit Insurance Corporation***
22 ***Improvement Act of 1991, no***
23 ***walkaway clause shall be enforce-***
24 ***able in a qualified financial con-***

1 *tract of an insured credit union in*
2 *default.*

3 “(ii) **WALKAWAY CLAUSE DE-**
4 **FINED.**—*For purposes of this sub-*
5 *paragraph, the term ‘walkaway*
6 *clause’ means a provision in a*
7 *qualified financial contract that,*
8 *after calculation of a value of a*
9 *party’s position or an amount due*
10 *to or from 1 of the parties in ac-*
11 *cordance with its terms upon ter-*
12 *mination, liquidation, or accelera-*
13 *tion of the qualified financial con-*
14 *tract, either does not create a pay-*
15 *ment obligation of a party or ex-*
16 *tinguishes a payment obligation of*
17 *a party in whole or in part solely*
18 *because of such party’s status as a*
19 *nondefaulting party.”.*

20 **(2) TECHNICAL AND CONFORMING AMEND-**
21 **MENT.**—*Section 207(c)(12)(A) of the Fed-*
22 *eral Credit Union Act (12 U.S.C.*
23 *1787(c)(12)(A)) is amended by inserting*
24 *“or the exercise of rights or powers by”*
25 *after “the appointment of”.*

1 **SEC. 5082C. AMENDMENTS RELATING TO TRANSFERS OF**
2 **QUALIFIED FINANCIAL CONTRACTS.**

3 **(a) FDIC-INSURED DEPOSITORY INSTITU-**
4 **TIONS.—**

5 **(1) TRANSFERS OF QUALIFIED FINANCIAL**
6 **CONTRACTS TO FINANCIAL INSTITUTIONS.—**
7 ***Section 11(e)(9) of the Federal Deposit In-***
8 ***surance Act (12 U.S.C. 1821(e)(9)) is***
9 ***amended to read as follows:***

10 **“(9) TRANSFER OF QUALIFIED FINANCIAL**
11 **CONTRACTS.—**

12 **“(A) IN GENERAL.—*In making any***
13 ***transfer of assets or liabilities of a de-***
14 ***pository institution in default which***
15 ***includes any qualified financial con-***
16 ***tract, the conservator or receiver for***
17 ***such depository institution shall ei-***
18 ***ther—***

19 **“(i) *transfer to one financial***
20 ***institution, other than a financial***
21 ***institution for which a conser-***
22 ***vator, receiver, trustee in bank-***
23 ***ruptcy, or other legal custodian***
24 ***has been appointed or which is***
25 ***otherwise the subject of a bank-***
26 ***ruptcy or insolvency proceeding—***

1 ***“(I) all qualified financial***
2 ***contracts between any person***
3 ***or any affiliate of such person***
4 ***and the depository institution***
5 ***in default;***

6 ***“(II) all claims of such***
7 ***person or any affiliate of such***
8 ***person against such deposi-***
9 ***tory institution under any***
10 ***such contract (other than any***
11 ***claim which, under the terms***
12 ***of any such contract, is subor-***
13 ***minated to the claims of gen-***
14 ***eral unsecured creditors of***
15 ***such institution);***

16 ***“(III) all claims of such***
17 ***depository institution against***
18 ***such person or any affiliate of***
19 ***such person under any such***
20 ***contract; and***

21 ***“(IV) all property securing***
22 ***or any other credit enhance-***
23 ***ment for any contract de-***
24 ***scribed in subclause (I) or any***
25 ***claim described in subclause***

1 ***(II) or (III) under any such***
2 ***contract; or***

3 ***“(ii) transfer none of the***
4 ***qualified financial contracts,***
5 ***claims, property or other credit***
6 ***enhancement referred to in clause***
7 ***(i) (with respect to such person***
8 ***and any affiliate of such person).***

9 ***“(B) TRANSFER TO FOREIGN BANK,***
10 ***FOREIGN FINANCIAL INSTITUTION, OR***
11 ***BRANCH OR AGENCY OF A FOREIGN BANK***
12 ***OR FINANCIAL INSTITUTION.—In trans-***
13 ***ferring any qualified financial con-***
14 ***tracts and related claims and prop-***
15 ***erty under subparagraph (A)(i), the***
16 ***conservator or receiver for the deposi-***
17 ***tory institution shall not make such***
18 ***transfer to a foreign bank, financial***
19 ***institution organized under the laws***
20 ***of a foreign country, or a branch or***
21 ***agency of a foreign bank or financial***
22 ***institution unless, under the law ap-***
23 ***plicable to such bank, financial insti-***
24 ***tution, branch or agency, to the quali-***
25 ***fied financial contracts, and to any***

1 *netting contract, any security agree-*
2 *ment or arrangement or other credit*
3 *enhancement related to one or more*
4 *qualified financial contracts, the con-*
5 *tractual rights of the parties to such*
6 *qualified financial contracts, netting*
7 *contracts, security agreements or ar-*
8 *rangements, or other credit enhance-*
9 *ments are enforceable substantially to*
10 *the same extent as permitted under*
11 *this section.*

12 “(C) *TRANSFER OF CONTRACTS SUB-*
13 *JECT TO THE RULES OF A CLEARING OR-*
14 *GANIZATION.—In the event that a con-*
15 *servator or receiver transfers any*
16 *qualified financial contract and re-*
17 *lated claims, property, and credit en-*
18 *hancements pursuant to subpara-*
19 *graph (A)(i) and such contract is*
20 *cleared by or subject to the rules of a*
21 *clearing organization, the clearing or-*
22 *ganization shall not be required to ac-*
23 *cept the transferee as a member by*
24 *virtue of the transfer.*

1 ***“(D) DEFINITIONS.—For purposes of***
2 ***this paragraph, the term ‘financial in-***
3 ***stitution’ means a broker or dealer, a***
4 ***depository institution, a futures com-***
5 ***mission merchant, or any other insti-***
6 ***tution, as determined by the Corpora-***
7 ***tion by regulation to be a financial in-***
8 ***stitution, and the term ‘clearing orga-***
9 ***nization’ has the same meaning as in***
10 ***section 402 of the Federal Deposit In-***
11 ***surance Corporation Improvement Act***
12 ***of 1991.”.***

13 ***(2) NOTICE TO QUALIFIED FINANCIAL***
14 ***CONTRACT COUNTERPARTIES.—Section***
15 ***11(e)(10)(A) of the Federal Deposit Insur-***
16 ***ance Act (12 U.S.C. 1821(e)(10)(A)) is***
17 ***amended in the material immediately fol-***
18 ***lowing clause (ii) by striking “the conser-***
19 ***vator” and all that follows through the***
20 ***period and inserting the following: “the***
21 ***conservator or receiver shall notify any***
22 ***person who is a party to any such con-***
23 ***tract of such transfer by 5:00 p.m. (eastern***
24 ***time) on the business day following the***
25 ***date of the appointment of the receiver in***

1 *the case of a receivership, or the business*
 2 *day following such transfer in the case of*
 3 *a conservatorship.”.*

4 **(3) RIGHTS AGAINST RECEIVER AND CON-**
 5 **SERVATOR AND TREATMENT OF BRIDGE**
 6 **BANKS.—Section 11(e)(10) of the Federal**
 7 **Deposit Insurance Act (12 U.S.C.**
 8 **1821(e)(10)) is amended—**

9 **(A) by redesignating subpara-**
 10 **graph (B) as subparagraph (D); and**

11 **(B) by inserting after subpara-**
 12 **graph (A) the following new subpara-**
 13 **graphs:**

14 **“(B) CERTAIN RIGHTS NOT ENFORCE-**
 15 **ABLE.—**

16 **“(i) RECEIVERSHIP.—A person**
 17 **who is a party to a qualified fi-**
 18 **nancial contract with an insured**
 19 **depository institution may not ex-**
 20 **ercise any right that such person**
 21 **has to terminate, liquidate, or net**
 22 **such contract under paragraph**
 23 **(8)(A) of this subsection or section**
 24 **403 or 404 of the Federal Deposit**
 25 **Insurance Corporation Improve-**

1 *ment Act of 1991, solely by reason*
2 *of or incidental to the appoint-*
3 *ment of a receiver for the deposi-*
4 *tory institution (or the insolvency*
5 *or financial condition of the de-*
6 *pository institution for which the*
7 *receiver has been appointed)—*

8 *“(I) until 5:00 p.m. (east-*
9 *ern time) on the business day*
10 *following the date of the ap-*
11 *pointment of the receiver; or*

12 *“(II) after the person has*
13 *received notice that the con-*
14 *tract has been transferred*
15 *pursuant to paragraph (9)(A).*

16 *“(ii) CONSERVATORSHIP.—A per-*
17 *son who is a party to a qualified*
18 *financial contract with an in-*
19 *sured depository institution may*
20 *not exercise any right that such*
21 *person has to terminate, liquidate,*
22 *or net such contract under para-*
23 *graph (8)(E) of this subsection or*
24 *section 403 or 404 of the Federal*
25 *Deposit Insurance Corporation*

1 *Improvement Act of 1991, solely by*
2 *reason of or incidental to the ap-*
3 *pointment of a conservator for the*
4 *depository institution (or the in-*
5 *solvency or financial condition of*
6 *the depository institution for*
7 *which the conservator has been*
8 *appointed).*

9 “(iii) NOTICE.—For purposes of
10 *this paragraph, the Corporation*
11 *as receiver or conservator of an*
12 *insured depository institution*
13 *shall be deemed to have notified a*
14 *person who is a party to a quali-*
15 *fied financial contract with such*
16 *depository institution if the Cor-*
17 *poration has taken steps reason-*
18 *ably calculated to provide notice*
19 *to such person by the time speci-*
20 *fied in subparagraph (A).*

21 “(C) TREATMENT OF BRIDGE
22 BANKS.—The following institutions
23 shall not be considered to be a finan-
24 cial institution for which a conser-
25 vator, receiver, trustee in bankruptcy,

1 *or other legal custodian has been ap-*
2 *pointed or which is otherwise the sub-*
3 *ject of a bankruptcy or insolvency pro-*
4 *ceeding for purposes of paragraph (9):*

5 *“(i) A bridge bank.*

6 *“(ii) A depository institution*
7 *organized by the Corporation, for*
8 *which a conservator is appointed*
9 *either—*

10 *“(I) immediately upon the*
11 *organization of the institu-*
12 *tion; or*

13 *“(II) at the time of a pur-*
14 *chase and assumption trans-*
15 *action between the depository*
16 *institution and the Corpora-*
17 *tion as receiver for a deposi-*
18 *tory institution in default.”.*

19 ***(b) INSURED CREDIT UNIONS.—***

20 ***(1) TRANSFERS OF QUALIFIED FINANCIAL***
21 ***CONTRACTS TO FINANCIAL INSTITUTIONS.—***
22 ***Section 207(c)(9) of the Federal Credit***
23 ***Union Act (12 U.S.C. 1787(c)(9)) is amend-***
24 ***ed to read as follows:***

1 **“(9) TRANSFER OF QUALIFIED FINANCIAL**
2 **CONTRACTS.—**

3 **“(A) IN GENERAL.—In making any**
4 **transfer of assets or liabilities of a**
5 **credit union in default which includes**
6 **any qualified financial contract, the**
7 **conservator or liquidating agent for**
8 **such credit union shall either—**

9 **“(i) transfer to 1 financial in-**
10 **stitution, other than a financial**
11 **institution for which a conser-**
12 **vator, receiver, trustee in bank-**
13 **ruptcy, or other legal custodian**
14 **has been appointed or which is**
15 **otherwise the subject of a bank-**
16 **ruptcy or insolvency proceeding—**

17 **“(I) all qualified financial**
18 **contracts between any person**
19 **or any affiliate of such person**
20 **and the credit union in de-**
21 **fault;**

22 **“(II) all claims of such**
23 **person or any affiliate of such**
24 **person against such credit**
25 **union under any such con-**

1 *tract (other than any claim*
2 *which, under the terms of any*
3 *such contract, is subordinated*
4 *to the claims of general unse-*
5 *cured creditors of such credit*
6 *union);*

7 *“(III) all claims of such*
8 *credit union against such per-*
9 *son or any affiliate of such*
10 *person under any such con-*
11 *tract; and*

12 *“(IV) all property securing*
13 *or any other credit enhance-*
14 *ment for any contract de-*
15 *scribed in subclause (I) or any*
16 *claim described in subclause*
17 *(II) or (III) under any such*
18 *contract; or*

19 *“(ii) transfer none of the*
20 *qualified financial contracts,*
21 *claims, property or other credit*
22 *enhancement referred to in clause*
23 *(i) (with respect to such person*
24 *and any affiliate of such person).*

1 “(B) *TRANSFER TO FOREIGN BANK,*
2 *FOREIGN FINANCIAL INSTITUTION, OR*
3 *BRANCH OR AGENCY OF A FOREIGN BANK*
4 *OR FINANCIAL INSTITUTION.—In trans-*
5 *ferring any qualified financial con-*
6 *tracts and related claims and prop-*
7 *erty under subparagraph (A)(i), the*
8 *conservator or liquidating agent for*
9 *the credit union shall not make such*
10 *transfer to a foreign bank, financial*
11 *institution organized under the laws*
12 *of a foreign country, or a branch or*
13 *agency of a foreign bank or financial*
14 *institution unless, under the law ap-*
15 *plicable to such bank, financial insti-*
16 *tution, branch or agency, to the quali-*
17 *fied financial contracts, and to any*
18 *netting contract, any security agree-*
19 *ment or arrangement or other credit*
20 *enhancement related to 1 or more*
21 *qualified financial contracts, the con-*
22 *tractual rights of the parties to such*
23 *qualified financial contracts, netting*
24 *contracts, security agreements or ar-*
25 *rangements, or other credit enhance-*

1 *ments are enforceable substantially to*
2 *the same extent as permitted under*
3 *this section.*

4 *“(C) TRANSFER OF CONTRACTS SUB-*
5 *JECT TO THE RULES OF A CLEARING OR-*
6 *GANIZATION.—In the event that a con-*
7 *servator or liquidating agent trans-*
8 *fers any qualified financial contract*
9 *and related claims, property, and*
10 *credit enhancements pursuant to sub-*
11 *paragraph (A)(i) and such contract is*
12 *cleared by or subject to the rules of a*
13 *clearing organization, the clearing or-*
14 *ganization shall not be required to ac-*
15 *cept the transferee as a member by*
16 *virtue of the transfer.*

17 *“(D) DEFINITIONS.—For purposes of*
18 *this paragraph—*

19 *“(i) the term ‘financial institu-*
20 *tion’ means a broker or dealer, a*
21 *depository institution, a futures*
22 *commission merchant, a credit*
23 *union, or any other institution, as*
24 *determined by the Board by regu-*

1 *lation to be a financial institu-*
2 *tion; and*

3 *“(ii) the term ‘clearing organi-*
4 *zation’ has the same meaning as*
5 *in section 402 of the Federal De-*
6 *posit Insurance Corporation Im-*
7 *provement Act of 1991.”.*

8 (2) NOTICE TO QUALIFIED FINANCIAL
9 CONTRACT COUNTERPARTIES.—Section
10 207(c)(10)(A) of the Federal Credit Union
11 Act (12 U.S.C. 1787(c)(10)(A)) is amended
12 in the material immediately following
13 clause (ii) by striking “the conservator”
14 and all that follows through the period
15 and inserting the following: “the conser-
16 vator or liquidating agent shall notify
17 any person who is a party to any such
18 contract of such transfer by 5:00 p.m.
19 (eastern time) on the business day fol-
20 lowing the date of the appointment of the
21 liquidating agent in the case of a liquida-
22 tion, or the business day following such
23 transfer in the case of a conservator-
24 ship.”.

1 **(3) RIGHTS AGAINST LIQUIDATING AGENT**
2 **AND CONSERVATOR AND TREATMENT OF**
3 **BRIDGE BANKS.—Section 207(c)(10) of the**
4 **Federal Credit Union Act (12 U.S.C.**
5 **1787(c)(10)) is amended—**

6 **(A) by redesignating subpara-**
7 **graph (B) as subparagraph (D); and**

8 **(B) by inserting after subpara-**
9 **graph (A) the following new subpara-**
10 **graphs:**

11 **“(B) CERTAIN RIGHTS NOT ENFORCE-**
12 **ABLE.—**

13 **“(i) LIQUIDATION.—A person**
14 **who is a party to a qualified fi-**
15 **nancial contract with an insured**
16 **credit union may not exercise any**
17 **right that such person has to ter-**
18 **minate, liquidate, or net such con-**
19 **tract under paragraph (8)(A) of**
20 **this subsection or section 403 or**
21 **404 of the Federal Deposit Insur-**
22 **ance Corporation Improvement**
23 **Act of 1991, solely by reason of or**
24 **incidental to the appointment of a**
25 **liquidating agent for the credit**

1 *union institution (or the insol-*
2 *vency or financial condition of the*
3 *credit union for which the liqui-*
4 *dating agent has been ap-*
5 *pointed)—*

6 *“(I) until 5:00 p.m. (east-*
7 *ern time) on the business day*
8 *following the date of the ap-*
9 *pointment of the liquidating*
10 *agent; or*

11 *“(II) after the person has*
12 *received notice that the con-*
13 *tract has been transferred*
14 *pursuant to paragraph (9)(A).*

15 *“(ii) CONSERVATORSHIP.—A per-*
16 *son who is a party to a qualified*
17 *financial contract with an in-*
18 *sured credit union may not exer-*
19 *cise any right that such person*
20 *has to terminate, liquidate, or net*
21 *such contract under paragraph*
22 *(8)(E) of this subsection or section*
23 *403 or 404 of the Federal Deposit*
24 *Insurance Corporation Improve-*
25 *ment Act of 1991, solely by reason*

1 *of or incidental to the appoint-*
2 *ment of a conservator for the cred-*
3 *it union or the insolvency or fi-*
4 *nancial condition of the credit*
5 *union for which the conservator*
6 *has been appointed).*

7 “(iii) NOTICE.—For purposes of
8 *this paragraph, the Board as con-*
9 *servator or liquidating agent of*
10 *an insured credit union shall be*
11 *deemed to have notified a person*
12 *who is a party to a qualified fi-*
13 *nancial contract with such credit*
14 *union if the Board has taken steps*
15 *reasonably calculated to provide*
16 *notice to such person by the time*
17 *specified in subparagraph (A).*

18 “(C) TREATMENT OF BRIDGE
19 BANKS.—The following institutions
20 shall not be considered to be a finan-
21 cial institution for which a conser-
22 vator, receiver, trustee in bankruptcy,
23 or other legal custodian has been ap-
24 pointed or which is otherwise the sub-

1 *ject of a bankruptcy or insolvency pro-*
 2 *ceeding for purposes of paragraph (9):*

3 “(i) *A bridge bank.*

4 “(ii) *A credit union organized*
 5 *by the Board, for which a conser-*
 6 *vator is appointed either—*

7 “(I) *immediately upon the*
 8 *organization of the credit*
 9 *union; or*

10 “(II) *at the time of a pur-*
 11 *chase and assumption trans-*
 12 *action between the credit*
 13 *union and the Board as re-*
 14 *ceiver for a credit union in de-*
 15 *fault.”.*

16 *SEC. 5082D. AMENDMENTS RELATING TO DISAFFIRMANCE*
 17 *OR REPUDIATION OF QUALIFIED FINANCIAL*
 18 *CONTRACTS.*

19 *(a) FDIC-INSURED DEPOSITORY INSTITU-*
 20 *TIONS.—Section 11(e) of the Federal Deposit In-*
 21 *surance Act (12 U.S.C. 1821(e)) is amended—*

22 *(1) by redesignating paragraphs (11)*
 23 *through (15) as paragraphs (12) through*
 24 *(16), respectively;*

1 (2) *by inserting after paragraph (10)*
2 *the following new paragraph:*

3 “(11) *DISAFFIRMANCE OR REPUDIATION*
4 *OF QUALIFIED FINANCIAL CONTRACTS.—In ex-*
5 *ercising the rights of disaffirmance or re-*
6 *pudiation of a conservator or receiver*
7 *with respect to any qualified financial*
8 *contract to which an insured depository*
9 *institution is a party, the conservator or*
10 *receiver for such institution shall either—*

11 “(A) *disaffirm or repudiate all*
12 *qualified financial contracts be-*
13 *tween—*

14 “(i) *any person or any affiliate*
15 *of such person; and*

16 “(ii) *the depository institution*
17 *in default; or*

18 “(B) *disaffirm or repudiate none*
19 *of the qualified financial contracts re-*
20 *ferred to in subparagraph (A) (with*
21 *respect to such person or any affiliate*
22 *of such person).”; and*

23 (3) *by adding at the end the following*
24 *new paragraph:*

1 **“(17) SAVINGS CLAUSE.—***The meanings*
 2 ***of terms used in this subsection are appli-***
 3 ***cable for purposes of this subsection only,***
 4 ***and shall not be construed or applied so***
 5 ***as to challenge or affect the characteriza-***
 6 ***tion, definition, or treatment of any simi-***
 7 ***lar terms under any other statute, regula-***
 8 ***tion, or rule, including the Gramm-Leach-***
 9 ***Bliley Act, the Legal Certainty for Bank***
 10 ***Products Act of 2000, the securities laws***
 11 ***(as that term is defined in section 3(a)(47)***
 12 ***of the Securities Exchange Act of 1934),***
 13 ***and the Commodity Exchange Act.”.***

14 **(b) INSURED CREDIT UNIONS.—Section**
 15 ***207(c) of the Federal Credit Union Act (12***
 16 ***U.S.C. 1787(c)) is amended—***

17 ***(1) by redesignating paragraphs (11),***
 18 ***(12), and (13) as paragraphs (12), (13),***
 19 ***and (14), respectively;***

20 ***(2) by inserting after paragraph (10)***
 21 ***the following new paragraph:***

22 **“(11) DISAFFIRMANCE OR REPUDIATION**
 23 ***OF QUALIFIED FINANCIAL CONTRACTS.—In ex-***
 24 ***ercising the rights of disaffirmance or re-***
 25 ***pudiation of a conservator or liquidating***

1 *agent with respect to any qualified finan-*
2 *cial contract to which an insured credit*
3 *union is a party, the conservator or liqui-*
4 *dating agent for such credit union shall*
5 *either—*

6 *“(A) disaffirm or repudiate all*
7 *qualified financial contracts be-*
8 *tween—*

9 *“(i) any person or any affiliate*
10 *of such person; and*

11 *“(ii) the credit union in de-*
12 *fault; or*

13 *“(B) disaffirm or repudiate none*
14 *of the qualified financial contracts re-*
15 *ferred to in subparagraph (A) (with*
16 *respect to such person or any affiliate*
17 *of such person).”;* and

18 *(3) by adding at the end the following*
19 *new paragraph:*

20 *“(15) SAVINGS CLAUSE.—The meanings*
21 *of terms used in this subsection are appli-*
22 *cable for purposes of this subsection only,*
23 *and shall not be construed or applied so*
24 *as to challenge or affect the characteriza-*
25 *tion, definition, or treatment of any simi-*

1 *lar terms under any other statute, regula-*
 2 *tion, or rule, including the Gramm-Leach-*
 3 *Bliley Act, the Legal Certainty for Bank*
 4 *Products Act of 2000, the securities laws*
 5 *(as that term is defined in section (a)(47)*
 6 *of the Securities Exchange Act of 1934),*
 7 *and the Commodity Exchange Act.”.*

8 **SEC. 5082E. CLARIFYING AMENDMENT RELATING TO MAS-**
 9 **TER AGREEMENTS.**

10 **(a) FDIC-INSURED DEPOSITORY INSTITU-**
 11 **TIONS.—Section 11(e)(8)(D)(vii) of the Federal**
 12 **Deposit Insurance Act (12 U.S.C.**
 13 **1821(e)(8)(D)(vii)) is amended to read as fol-**
 14 **lows:**

15 **“(vii) TREATMENT OF MASTER**
 16 **AGREEMENT AS ONE AGREEMENT.—**
 17 **Any master agreement for any**
 18 **contract or agreement described**
 19 **in any preceding clause of this**
 20 **subparagraph (or any master**
 21 **agreement for such master agree-**
 22 **ment or agreements), together**
 23 **with all supplements to such mas-**
 24 **ter agreement, shall be treated as**
 25 **a single agreement and a single**

1 *qualified financial contract. If a*
 2 *master agreement contains provi-*
 3 *sions relating to agreements or*
 4 *transactions that are not them-*
 5 *selves qualified financial con-*
 6 *tracts, the master agreement shall*
 7 *be deemed to be a qualified finan-*
 8 *cial contract only with respect to*
 9 *those transactions that are them-*
 10 *selves qualified financial con-*
 11 *tracts.”.*

12 **(b) INSURED CREDIT UNIONS.—***Section*
 13 **207(c)(8)(D) of the Federal Credit Union Act**
 14 **(12 U.S.C. 1787(c)(8)(D)) is amended by insert-**
 15 **ing after clause (vi) (as added by section**
 16 **5082A(f) of this subchapter) the following new**
 17 **clause:**

18 **“(vii) TREATMENT OF MASTER**
 19 **AGREEMENT AS ONE AGREEMENT.—**
 20 **Any master agreement for any**
 21 **contract or agreement described**
 22 **in any preceding clause of this**
 23 **subparagraph (or any master**
 24 **agreement for such master agree-**
 25 **ment or agreements), together**

1 *with all supplements to such mas-*
2 *ter agreement, shall be treated as*
3 *a single agreement and a single*
4 *qualified financial contract. If a*
5 *master agreement contains provi-*
6 *sions relating to agreements or*
7 *transactions that are not them-*
8 *selves qualified financial con-*
9 *tracts, the master agreement shall*
10 *be deemed to be a qualified finan-*
11 *cial contract only with respect to*
12 *those transactions that are them-*
13 *selves qualified financial con-*
14 *tracts.”.*

15 **SEC. 5082F. FEDERAL DEPOSIT INSURANCE CORPORATION**
16 **IMPROVEMENT ACT OF 1991.**

17 **(a) DEFINITIONS.—Section 402 of the Fed-**
18 **eral Deposit Insurance Corporation Improve-**
19 **ment Act of 1991 (12 U.S.C. 4402) is amended—**
20 **(1) in paragraph (2)—**

21 **(A) in subparagraph (A)(ii), by in-**
22 **serting before the semicolon “, or is ex-**
23 **empt from such registration by order**
24 **of the Securities and Exchange Com-**
25 **mission”; and**

1 ***(B) in subparagraph (B), by inserting before the period “, that has***
2 ***been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral***
3 ***clearing organization (as defined in***
4 ***section 408 of this Act)”;***
5

6 ***(2) in paragraph (6)—***
7

8 ***(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;***
9

10 ***(B) by inserting after subparagraph (A) the following new subparagraph:***
11

12 ***“(B) an uninsured national bank***
13 ***or an uninsured State bank that is a***
14 ***member of the Federal Reserve System, if the national bank or State***
15 ***member bank is not eligible to make***
16 ***application to become an insured***
17 ***bank under section 5 of the Federal***
18 ***Deposit Insurance Act;”;*** and
19

20 ***(C) by amending subparagraph***
21 ***(C) (as redesignated) to read as follows:***
22

1 “(C) a branch or agency of a for-
2 eign bank, a foreign bank and any
3 branch or agency of the foreign bank,
4 or the foreign bank that established
5 the branch or agency, as those terms
6 are defined in section 1(b) of the Inter-
7 national Banking Act of 1978;”;

8 (3) in paragraph (11), by inserting be-
9 fore the period “and any other clearing
10 organization with which such clearing or-
11 ganization has a netting contract”;

12 (4) by amending paragraph (14)(A)(i)
13 to read as follows:

14 “(i) means a contract or agree-
15 ment between 2 or more financial
16 institutions, clearing organiza-
17 tions, or members that provides
18 for netting present or future pay-
19 ment obligations or payment enti-
20 tlements (including liquidation or
21 close out values relating to such
22 obligations or entitlements)
23 among the parties to the agree-
24 ment; and”;

1 ***(5) by adding at the end the following***
2 ***new paragraph:***

3 ***“(15) PAYMENT.—The term ‘payment’***
4 ***means a payment of United States dollars,***
5 ***another currency, or a composite cur-***
6 ***rency, and a noncash delivery, including***
7 ***a payment or delivery to liquidate an***
8 ***unmatured obligation.”.***

9 ***(b) ENFORCEABILITY OF BILATERAL NETTING***
10 ***CONTRACTS.—Section 403 of the Federal De-***
11 ***posit Insurance Corporation Improvement Act***
12 ***of 1991 (12 U.S.C. 4403) is amended—***

13 ***(1) by striking subsection (a) and in-***
14 ***serting the following:***

15 ***“(a) GENERAL RULE.—Notwithstanding any***
16 ***other provision of State or Federal law (other***
17 ***than paragraphs (8)(E), (8)(F), and (10)(B) of***
18 ***section 11(e) of the Federal Deposit Insurance***
19 ***Act, paragraphs (8)(E), (8)(F), and (10)(B) of***
20 ***section 207(c) of the Federal Credit Union Act,***
21 ***or any order authorized under section 5(b)(2)***
22 ***of the Securities Investor Protection Act of***
23 ***1970), the covered contractual payment obliga-***
24 ***tions and the covered contractual payment en-***
25 ***titlements between any 2 financial institutions***

1 *shall be netted in accordance with, and sub-*
2 *ject to the conditions of, the terms of any appli-*
3 *cable netting contract (except as provided in*
4 *section 561(b)(2) of title 11, United States*
5 *Code).”; and*

6 *(2) by adding at the end the following*
7 *new subsection:*

8 *“(f) ENFORCEABILITY OF SECURITY AGREE-*
9 *MENTS.—The provisions of any security agree-*
10 *ment or arrangement or other credit enhance-*
11 *ment related to one or more netting contracts*
12 *between any 2 financial institutions shall be*
13 *enforceable in accordance with their terms*
14 *(except as provided in section 561(b)(2) of title*
15 *11, United States Code), and shall not be*
16 *stayed, avoided, or otherwise limited by any*
17 *State or Federal law (other than paragraphs*
18 *(8)(E), (8)(F), and (10)(B) of section 11(e) of the*
19 *Federal Deposit Insurance Act, paragraphs*
20 *(8)(E), (8)(F), and (10)(B) of section 207(c) of*
21 *the Federal Credit Union Act, and section*
22 *5(b)(2) of the Securities Investor Protection Act*
23 *of 1970).”.*

24 *(c) ENFORCEABILITY OF CLEARING ORGANIZA-*
25 *TION NETTING CONTRACTS.—Section 404 of the*

1 *Federal Deposit Insurance Corporation Im-*
2 *provement Act of 1991 (12 U.S.C. 4404) is*
3 *amended—*

4 *(1) by striking subsection (a) and in-*
5 *serting the following:*

6 *“(a) GENERAL RULE.—Notwithstanding any*
7 *other provision of State or Federal law (other*
8 *than paragraphs (8)(E), (8)(F), and (10)(B) of*
9 *section 11(e) of the Federal Deposit Insurance*
10 *Act, paragraphs (8)(E), (8)(F), and (10)(B) of*
11 *section 207(c) of the Federal Credit Union Act,*
12 *and any order authorized under section*
13 *5(b)(2) of the Securities Investor Protection Act*
14 *of 1970), the covered contractual payment obli-*
15 *gations and the covered contractual payment*
16 *entitlements of a member of a clearing organi-*
17 *zation to and from all other members of a*
18 *clearing organization shall be netted in ac-*
19 *cordance with and subject to the conditions of*
20 *any applicable netting contract (except as pro-*
21 *vided in section 561(b)(2) of title 11, United*
22 *States Code).”;* and

23 *(2) by adding at the end the following*
24 *new subsection:*

1 “(h) **ENFORCEABILITY OF SECURITY AGREE-**
2 **MENTS.—***The provisions of any security agree-*
3 *ment or arrangement or other credit enhance-*
4 *ment related to one or more netting contracts*
5 *between any 2 members of a clearing organiza-*
6 *tion shall be enforceable in accordance with*
7 *their terms (except as provided in section*
8 *561(b)(2) of title 11, United States Code), and*
9 *shall not be stayed, avoided, or otherwise lim-*
10 *ited by any State or Federal law (other than*
11 *paragraphs (8)(E), (8)(F), and (10)(B) of sec-*
12 *tion 11(e) of the Federal Deposit Insurance*
13 *Act, paragraphs (8)(E), (8)(F), and (10)(B) of*
14 *section 207(c) of the Federal Credit Union Act,*
15 *and section 5(b)(2) of the Securities Investor*
16 *Protection Act of 1970).”.*

17 **(d) ENFORCEABILITY OF CONTRACTS WITH**
18 **UNINSURED NATIONAL BANKS, UNINSURED FED-**
19 **ERAL BRANCHES AND AGENCIES, CERTAIN UNIN-**
20 **SURED STATE MEMBER BANKS, AND EDGE ACT**
21 **CORPORATIONS.—***The Federal Deposit Insur-*
22 *ance Corporation Improvement Act of 1991 (12*
23 *U.S.C. 4401 et seq.) is amended—*

24 **(1) by redesignating section 407 as sec-**
25 **tion 407A; and**

1 ***(2) by inserting after section 406 the***
2 ***following new section:***

3 ***“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED***
4 ***NATIONAL BANKS, UNINSURED FEDERAL***
5 ***BRANCHES AND AGENCIES, CERTAIN UNIN-***
6 ***SURED STATE MEMBER BANKS, AND EDGE***
7 ***ACT CORPORATIONS.***

8 ***“(a) IN GENERAL.—Notwithstanding any***
9 ***other provision of law, paragraphs (8), (9),***
10 ***(10), and (11) of section 11(e) of the Federal De-***
11 ***posit Insurance Act shall apply to an unin-***
12 ***sured national bank or uninsured Federal***
13 ***branch or Federal agency, a corporation char-***
14 ***tered under section 25A of the Federal Reserve***
15 ***Act, or an uninsured State member bank***
16 ***which operates, or operates as, a multilateral***
17 ***clearing organization pursuant to section 409***
18 ***of this Act, except that for such purpose—***

19 ***“(1) any reference to the ‘Corporation***
20 ***as receiver’ or ‘the receiver or the Cor-***
21 ***poration’ shall refer to the receiver ap-***
22 ***pointed by the Comptroller of the Cur-***
23 ***rency in the case of an uninsured na-***
24 ***tional bank or uninsured Federal branch***
25 ***or agency, or to the receiver appointed by***

1 *the Board of Governors of the Federal Re-*
2 *serve System in the case of a corporation*
3 *chartered under section 25A of the Fed-*
4 *eral Reserve Act or an uninsured State*
5 *member bank;*

6 *“(2) any reference to the ‘Corporation’*
7 *(other than in section 11(e)(8)(D) of such*
8 *Act), the ‘Corporation, whether acting as*
9 *such or as conservator or receiver’, a ‘re-*
10 *ceiver’, or a ‘conservator’ shall refer to the*
11 *receiver or conservator appointed by the*
12 *Comptroller of the Currency in the case of*
13 *an uninsured national bank or uninsured*
14 *Federal branch or agency, or to the re-*
15 *ceiver or conservator appointed by the*
16 *Board of Governors of the Federal Reserve*
17 *System in the case of a corporation char-*
18 *tered under section 25A of the Federal Re-*
19 *serve Act or an uninsured State member*
20 *bank; and*

21 *“(3) any reference to an ‘insured de-*
22 *pository institution’ or ‘depository institu-*
23 *tion’ shall refer to an uninsured national*
24 *bank, an uninsured Federal branch or*
25 *Federal agency, a corporation chartered*

1 *under section 25A of the Federal Reserve*
2 *Act, or an uninsured State member bank*
3 *which operates, or operates as, a multilat-*
4 *eral clearing organization pursuant to*
5 *section 409 of this Act.*

6 “(b) *LIABILITY.—The liability of a receiver*
7 *or conservator of an uninsured national bank,*
8 *uninsured Federal branch or agency, a cor-*
9 *poration chartered under section 25A of the*
10 *Federal Reserve Act, or an uninsured State*
11 *member bank which operates, or operates as,*
12 *a multilateral clearing organization pursuant*
13 *to section 409 of this Act, shall be determined*
14 *in the same manner and subject to the same*
15 *limitations that apply to receivers and con-*
16 *servators of insured depository institutions*
17 *under section 11(e) of the Federal Deposit In-*
18 *surance Act.*

19 “(c) *REGULATORY AUTHORITY.—*

20 “(1) *IN GENERAL.—The Comptroller of*
21 *the Currency in the case of an uninsured*
22 *national bank or uninsured Federal*
23 *branch or agency and the Board of Gov-*
24 *ernors of the Federal Reserve System in*
25 *the case of a corporation chartered under*

1 *section 25A of the Federal Reserve Act, or*
2 *an uninsured State member bank that op-*
3 *erates, or operates as, a multilateral*
4 *clearing organization pursuant to section*
5 *409 of this Act, in consultation with the*
6 *Federal Deposit Insurance Corporation,*
7 *may each promulgate regulations solely to*
8 *implement this section.*

9 “(2) *SPECIFIC REQUIREMENT.—In pro-*
10 *mulgating regulations, limited solely to*
11 *implementing paragraphs (8), (9), (10),*
12 *and (11) of section 11(e) of the Federal De-*
13 *posit Insurance Act, the Comptroller of*
14 *the Currency and the Board of Governors*
15 *of the Federal Reserve System each shall*
16 *ensure that the regulations generally are*
17 *consistent with the regulations and poli-*
18 *cies of the Federal Deposit Insurance Cor-*
19 *poration adopted pursuant to the Federal*
20 *Deposit Insurance Act.*

21 “(d) *DEFINITIONS.—For purposes of this*
22 *section, the terms ‘Federal branch’, ‘Federal*
23 *agency’, and ‘foreign bank’ have the same*
24 *meanings as in section 1(b) of the Inter-*
25 *national Banking Act of 1978.”.*

1 *SEC. 5082G. BANKRUPTCY CODE AMENDMENTS.*

2 *(a) DEFINITIONS OF FORWARD CONTRACT,*
3 *REPURCHASE AGREEMENT, SECURITIES CLEARING*
4 *AGENCY, SWAP AGREEMENT, COMMODITY CON-*
5 *TRACT, AND SECURITIES CONTRACT.—Title 11,*
6 *United States Code, is amended—*

7 *(1) in section 101—*

8 *(A) in paragraph (25)—*

9 *(i) by striking “means a con-*
10 *tract” and inserting “means—*
11 *“(A) a contract”;*

12 *(ii) by striking “, or any com-*
13 *bination thereof or option there-*
14 *on;” and inserting “, or any other*
15 *similar agreement;”; and*

16 *(iii) by adding at the end the*
17 *following:*

18 *“(B) any combination of agree-*
19 *ments or transactions referred to in*
20 *subparagraphs (A) and (C);*

21 *“(C) any option to enter into an*
22 *agreement or transaction referred to*
23 *in subparagraph (A) or (B);*

24 *“(D) a master agreement that pro-*
25 *vides for an agreement or transaction*
26 *referred to in subparagraph (A), (B),*

1 *or (C), together with all supplements*
2 *to any such master agreement, with-*
3 *out regard to whether such master*
4 *agreement provides for an agreement*
5 *or transaction that is not a forward*
6 *contract under this paragraph, except*
7 *that such master agreement shall be*
8 *considered to be a forward contract*
9 *under this paragraph only with re-*
10 *spect to each agreement or trans-*
11 *action under such master agreement*
12 *that is referred to in subparagraph*
13 *(A), (B), or (C); or*

14 *“(E) any security agreement or ar-*
15 *rangement, or other credit enhance-*
16 *ment related to any agreement or*
17 *transaction referred to in subpara-*
18 *graph (A), (B), (C), or (D), including*
19 *any guarantee or reimbursement obli-*
20 *gation by or to a forward contract*
21 *merchant or financial participant in*
22 *connection with any agreement or*
23 *transaction referred to in any such*
24 *subparagraph, but not to exceed the*
25 *damages in connection with any such*

1 *agreement or transaction, measured*
2 *in accordance with section 562 of this*
3 *title;”;*

4 *(B) in paragraph (46), by striking*
5 *“on any day during the period begin-*
6 *ning 90 days before the date of” and*
7 *inserting “at any time before”;*

8 *(C) by amending paragraph (47)*
9 *to read as follows:*

10 *“(47) ‘repurchase agreement’ (which*
11 *definition also applies to a reverse repur-*
12 *chase agreement)—*

13 *“(A) means—*

14 *“(i) an agreement, including*
15 *related terms, which provides for*
16 *the transfer of one or more certifi-*
17 *cates of deposit, mortgage related*
18 *securities (as defined in section 3*
19 *of the Securities Exchange Act of*
20 *1934), mortgage loans, interests in*
21 *mortgage related securities or*
22 *mortgage loans, eligible bankers’*
23 *acceptances, qualified foreign gov-*
24 *ernment securities (defined as a*
25 *security that is a direct obligation*

1 *of, or that is fully guaranteed by,*
2 *the central government of a mem-*
3 *ber of the Organization for Eco-*
4 *nomie Cooperation and Develop-*
5 *ment), or securities that are direct*
6 *obligations of, or that are fully*
7 *guaranteed by, the United States*
8 *or any agency of the United States*
9 *against the transfer of funds by*
10 *the transferee of such certificates*
11 *of deposit, eligible bankers' ac-*
12 *ceptances, securities, mortgage*
13 *loans, or interests, with a simulta-*
14 *neous agreement by such trans-*
15 *feree to transfer to the transferor*
16 *thereof certificates of deposit, eli-*
17 *gible bankers' acceptance, securi-*
18 *ties, mortgage loans, or interests*
19 *of the kind described in this*
20 *clause, at a date certain not later*
21 *than 1 year after such transfer or*
22 *on demand, against the transfer*
23 *of funds;*

1 “(ii) *any combination of agree-*
2 *ments or transactions referred to*
3 *in clauses (i) and (iii);*

4 “(iii) *an option to enter into*
5 *an agreement or transaction re-*
6 *ferred to in clause (i) or (ii);*

7 “(iv) *a master agreement that*
8 *provides for an agreement or*
9 *transaction referred to in clause*
10 *(i), (ii), or (iii), together with all*
11 *supplements to any such master*
12 *agreement, without regard to*
13 *whether such master agreement*
14 *provides for an agreement or*
15 *transaction that is not a repur-*
16 *chase agreement under this para-*
17 *graph, except that such master*
18 *agreement shall be considered to*
19 *be a repurchase agreement under*
20 *this paragraph only with respect*
21 *to each agreement or transaction*
22 *under the master agreement that*
23 *is referred to in clause (i), (ii), or*
24 *(iii); or*

1 “(v) *any security agreement or*
2 *arrangement or other credit en-*
3 *hancement related to any agree-*
4 *ment or transaction referred to in*
5 *clause (i), (ii), (iii), or (iv), includ-*
6 *ing any guarantee or reimburse-*
7 *ment obligation by or to a repo*
8 *participant or financial partici-*
9 *pant in connection with any*
10 *agreement or transaction referred*
11 *to in any such clause, but not to*
12 *exceed the damages in connection*
13 *with any such agreement or trans-*
14 *action, measured in accordance*
15 *with section 562 of this title; and*

16 “(B) *does not include a repurchase*
17 *obligation under a participation in a*
18 *commercial mortgage loan;”;*

19 “(D) *in paragraph (48), by insert-*
20 *ing “, or exempt from such registra-*
21 *tion under such section pursuant to*
22 *an order of the Securities and Ex-*
23 *change Commission,” after “1934”;*
24 *and*

1 ***(E) by amending paragraph (53B)***
2 ***to read as follows:***

3 ***“(53B) ‘swap agreement’—***

4 ***“(A) means—***

5 ***“(i) any agreement, including***
6 ***the terms and conditions incor-***
7 ***porated by reference in such***
8 ***agreement, which is—***

9 ***“(I) an interest rate swap,***
10 ***option, future, or forward***
11 ***agreement, including a rate***
12 ***floor, rate cap, rate collar,***
13 ***cross-currency rate swap, and***
14 ***basis swap;***

15 ***“(II) a spot, same day-to-***
16 ***morrow, tomorrow-next, for-***
17 ***ward, or other foreign ex-***
18 ***change or precious metals***
19 ***agreement;***

20 ***“(III) a currency swap, op-***
21 ***tion, future, or forward agree-***
22 ***ment;***

23 ***“(IV) an equity index or***
24 ***equity swap, option, future, or***
25 ***forward agreement;***

1 “(V) *a debt index or debt*
2 *swap, option, future, or for-*
3 *ward agreement;*

4 “(VI) *a total return, credit*
5 *spread or credit swap, option,*
6 *future, or forward agreement;*

7 “(VII) *a commodity index*
8 *or a commodity swap, option,*
9 *future, or forward agreement;*
10 *or*

11 “(VIII) *a weather swap,*
12 *weather derivative, or weather*
13 *option;*

14 “(ii) *any agreement or trans-*
15 *action that is similar to any other*
16 *agreement or transaction referred*
17 *to in this paragraph and that—*

18 “(I) *is of a type that has*
19 *been, is presently, or in the fu-*
20 *ture becomes, the subject of re-*
21 *current dealings in the swap*
22 *markets (including terms and*
23 *conditions incorporated by ref-*
24 *erence therein); and*

1 “(II) *is a forward, swap,*
2 *future, or option on one or*
3 *more rates, currencies, com-*
4 *modities, equity securities, or*
5 *other equity instruments, debt*
6 *securities or other debt instru-*
7 *ments, quantitative measures*
8 *associated with an occurrence,*
9 *extent of an occurrence, or*
10 *contingency associated with a*
11 *financial, commercial, or eco-*
12 *nomi c consequence, or eco-*
13 *nomi c or financial indices or*
14 *measures of economic or fi-*
15 *nancial risk or value;*

16 “(iii) *any combination of*
17 *agreements or transactions re-*
18 *ferred to in this subparagraph;*

19 “(iv) *any option to enter into*
20 *an agreement or transaction re-*
21 *ferred to in this subparagraph;*

22 “(v) *a master agreement that*
23 *provides for an agreement or*
24 *transaction referred to in clause*
25 *(i), (ii), (iii), or (iv), together with*

1 *all supplements to any such mas-*
2 *ter agreement, and without regard*
3 *to whether the master agreement*
4 *contains an agreement or trans-*
5 *action that is not a swap agree-*
6 *ment under this paragraph, ex-*
7 *cept that the master agreement*
8 *shall be considered to be a swap*
9 *agreement under this paragraph*
10 *only with respect to each agree-*
11 *ment or transaction under the*
12 *master agreement that is referred*
13 *to in clause (i), (ii), (iii), or (iv); or*
14 *“(vi) any security agreement*
15 *or arrangement or other credit en-*
16 *hancement related to any agree-*
17 *ments or transactions referred to*
18 *in clause (i) through (v), includ-*
19 *ing any guarantee or reimburse-*
20 *ment obligation by or to a swap*
21 *participant or financial partici-*
22 *pant in connection with any*
23 *agreement or transaction referred*
24 *to in any such clause, but not to*
25 *exceed the damages in connection*

1 *with any such agreement or trans-*
2 *action, measured in accordance*
3 *with section 562 of this title; and*

4 *“(B) is applicable for purposes of*
5 *this title only, and shall not be con-*
6 *strued or applied so as to challenge or*
7 *affect the characterization, definition,*
8 *or treatment of any swap agreement*
9 *under any other statute, regulation, or*
10 *rule, including the Securities Act of*
11 *1933, the Securities Exchange Act of*
12 *1934, the Public Utility Holding Com-*
13 *pany Act of 1935, the Trust Indenture*
14 *Act of 1939, the Investment Company*
15 *Act of 1940, the Investment Advisers*
16 *Act of 1940, the Securities Investor*
17 *Protection Act of 1970, the Commodity*
18 *Exchange Act, the Gramm-Leach-Bl-*
19 *ley Act, and the Legal Certainty for*
20 *Bank Products Act of 2000;”;*

21 *(2) in section 741(7), by striking para-*
22 *graph (7) and inserting the following:*

23 *“(7) ‘securities contract’—*

24 *“(A) means—*

1 “(i) a contract for the pur-
2 chase, sale, or loan of a security, a
3 certificate of deposit, a mortgage
4 loan or any interest in a mortgage
5 loan, a group or index of securi-
6 ties, certificates of deposit, or
7 mortgage loans or interests there-
8 in (including an interest therein
9 or based on the value thereof), or
10 option on any of the foregoing, in-
11 cluding an option to purchase or
12 sell any such security, certificate
13 of deposit, mortgage loan, interest,
14 group or index, or option, and in-
15 cluding any repurchase or reverse
16 repurchase transaction on any
17 such security, certificate of de-
18 posit, mortgage loan, interest,
19 group or index, or option;

20 “(ii) any option entered into
21 on a national securities exchange
22 relating to foreign currencies;

23 “(iii) the guarantee by or to
24 any securities clearing agency of a
25 settlement of cash, securities, cer-

1 *tificates of deposit, mortgage*
2 *loans or interests therein, group*
3 *or index of securities, or mortgage*
4 *loans or interests therein (includ-*
5 *ing any interest therein or based*
6 *on the value thereof), or option on*
7 *any of the foregoing, including an*
8 *option to purchase or sell any*
9 *such security, certificate of de-*
10 *posit, mortgage loan, interest,*
11 *group or index, or option;*

12 *“(iv) any margin loan;*

13 *“(v) any other agreement or*
14 *transaction that is similar to an*
15 *agreement or transaction referred*
16 *to in this subparagraph;*

17 *“(vi) any combination of the*
18 *agreements or transactions re-*
19 *ferred to in this subparagraph;*

20 *“(vii) any option to enter into*
21 *any agreement or transaction re-*
22 *ferred to in this subparagraph;*

23 *“(viii) a master agreement*
24 *that provides for an agreement or*
25 *transaction referred to in clause*

1 *(i), (ii), (iii), (iv), (v), (vi), or (vii),*
2 *together with all supplements to*
3 *any such master agreement, with-*
4 *out regard to whether the master*
5 *agreement provides for an agree-*
6 *ment or transaction that is not a*
7 *securities contract under this sub-*
8 *paragraph, except that such mas-*
9 *ter agreement shall be considered*
10 *to be a securities contract under*
11 *this subparagraph only with re-*
12 *spect to each agreement or trans-*
13 *action under such master agree-*
14 *ment that is referred to in clause*
15 *(i), (ii), (iii), (iv), (v), (vi), or (vii);*
16 *or*

17 *“(ix) any security agreement*
18 *or arrangement or other credit en-*
19 *hancement related to any agree-*
20 *ment or transaction referred to in*
21 *this subparagraph, including any*
22 *guarantee or reimbursement obli-*
23 *gation by or to a stockbroker, se-*
24 *curities clearing agency, financial*
25 *institution, or financial partici-*

1 *pant in connection with any*
2 *agreement or transaction referred*
3 *to in this subparagraph, but not*
4 *to exceed the damages in connec-*
5 *tion with any such agreement or*
6 *transaction, measured in accord-*
7 *ance with section 562 of this title;*
8 *and*

9 *“(B) does not include any pur-*
10 *chase, sale, or repurchase obligation*
11 *under a participation in a commer-*
12 *cial mortgage loan;”;* and

13 *(3) in section 761(4)—*

14 *(A) by striking “or” at the end of*
15 *subparagraph (D); and*

16 *(B) by adding at the end the fol-*
17 *lowing:*

18 *“(F) any other agreement or trans-*
19 *action that is similar to an agreement*
20 *or transaction referred to in this*
21 *paragraph;*

22 *“(G) any combination of the agree-*
23 *ments or transactions referred to in*
24 *this paragraph;*

1 “(H) any option to enter into an
2 agreement or transaction referred to
3 in this paragraph;

4 “(I) a master agreement that pro-
5 vides for an agreement or transaction
6 referred to in subparagraph (A), (B),
7 (C), (D), (E), (F), (G), or (H), together
8 with all supplements to such master
9 agreement, without regard to whether
10 the master agreement provides for an
11 agreement or transaction that is not a
12 commodity contract under this para-
13 graph, except that the master agree-
14 ment shall be considered to be a com-
15 modity contract under this paragraph
16 only with respect to each agreement or
17 transaction under the master agree-
18 ment that is referred to in subpara-
19 graph (A), (B), (C), (D), (E), (F), (G), or
20 (H); or

21 “(J) any security agreement or ar-
22 rangement or other credit enhance-
23 ment related to any agreement or
24 transaction referred to in this para-
25 graph, including any guarantee or re-

1 *imbursement obligation by or to a*
2 *commodity broker or financial partic-*
3 *ipant in connection with any agree-*
4 *ment or transaction referred to in this*
5 *paragraph, but not to exceed the dam-*
6 *ages in connection with any such*
7 *agreement or transaction, measured*
8 *in accordance with section 562 of this*
9 *title;”.*

10 **(b) DEFINITIONS OF FINANCIAL INSTITUTION,**
11 **FINANCIAL PARTICIPANT, AND FORWARD CON-**
12 **TRACT MERCHANT.—Section 101 of title 11,**
13 **United States Code, is amended—**

14 **(1) by striking paragraph (22) and in-**
15 **serting the following:**

16 **“(22) ‘financial institution’ means—**

17 **“(A) a Federal reserve bank, or an**
18 **entity (domestic or foreign) that is a**
19 **commercial or savings bank, indus-**
20 **trial savings bank, savings and loan**
21 **association, trust company, federally-**
22 **insured credit union, or receiver or**
23 **conservator for such entity and, when**
24 **any such Federal reserve bank, re-**
25 **ceiver, conservator or entity is acting**

1 *as agent or custodian for a customer*
2 *in connection with a securities con-*
3 *tract (as defined in section 741) such*
4 *customer; or*

5 *“(B) in connection with a securi-*
6 *ties contract (as defined in section*
7 *741) an investment company reg-*
8 *istered under the Investment Company*
9 *Act of 1940;”;*

10 *(2) by inserting after paragraph (22)*
11 *the following:*

12 *“(22A) ‘financial participant’ means—*

13 *“(A) an entity that, at the time it*
14 *enters into a securities contract, com-*
15 *modity contract, swap agreement, re-*
16 *purchase agreement, or forward con-*
17 *tract, or at the time of the filing of the*
18 *petition, has one or more agreements*
19 *or transactions described in para-*
20 *graph (1), (2), (3), (4), (5), or (6) of sec-*
21 *tion 561(a) with the debtor or any*
22 *other entity (other than an affiliate)*
23 *of a total gross dollar value of not less*
24 *than \$1,000,000,000 in notional or ac-*
25 *tual principal amount outstanding on*

1 *any day during the previous 15-month*
2 *period, or has gross mark-to-market*
3 *positions of not less than \$100,000,000*
4 *(aggregated across counterparties) in*
5 *one or more such agreements or trans-*
6 *actions with the debtor or any other*
7 *entity (other than an affiliate) on any*
8 *day during the previous 15-month pe-*
9 *riod; or*

10 *“(B) a clearing organization (as*
11 *defined in section 402 of the Federal*
12 *Deposit Insurance Corporation Im-*
13 *provement Act of 1991);”;* and

14 *(3) by striking paragraph (26) and in-*
15 *serting the following:*

16 *“(26) ‘forward contract merchant’*
17 *means a Federal reserve bank, or an enti-*
18 *ty the business of which consists in whole*
19 *or in part of entering into forward con-*
20 *tracts as or with merchants in a com-*
21 *modity (as defined in section 761) or any*
22 *similar good, article, service, right, or in-*
23 *terest which is presently or in the future*
24 *becomes the subject of dealing in the for-*
25 *ward contract trade;”.*

1 **(c) DEFINITION OF MASTER NETTING AGREE-**
2 **MENT AND MASTER NETTING AGREEMENT PARTIC-**
3 **IPANT.—Section 101 of title 11, United States**
4 **Code, is amended by inserting after paragraph**
5 **(38) the following new paragraphs:**

6 **“(38A) ‘master netting agreement’—**

7 **“(A) means an agreement pro-**
8 **viding for the exercise of rights, in-**
9 **cluding rights of netting, setoff, liq-**
10 **uidation, termination, acceleration, or**
11 **close out, under or in connection with**
12 **one or more contracts that are de-**
13 **scribed in any one or more of para-**
14 **graphs (1) through (5) of section**
15 **561(a), or any security agreement or**
16 **arrangement or other credit enhance-**
17 **ment related to one or more of the**
18 **foregoing, including any guarantee or**
19 **reimbursement obligation related to 1**
20 **or more of the foregoing; and**

21 **“(B) if the agreement contains**
22 **provisions relating to agreements or**
23 **transactions that are not contracts**
24 **described in paragraphs (1) through**
25 **(5) of section 561(a), shall be deemed**

1 *to be a master netting agreement only*
2 *with respect to those agreements or*
3 *transactions that are described in any*
4 *one or more of paragraphs (1)*
5 *through (5) of section 561(a);*

6 *“(38B) ‘master netting agreement par-*
7 *ticipant’ means an entity that, at any time*
8 *before the filing of the petition, is a party*
9 *to an outstanding master netting agree-*
10 *ment with the debtor;”.*

11 *(d) SWAP AGREEMENTS, SECURITIES CON-*
12 *TRACTS, COMMODITY CONTRACTS, FORWARD CON-*
13 *TRACTS, REPURCHASE AGREEMENTS, AND MASTER*
14 *NETTING AGREEMENTS UNDER THE AUTOMATIC-*
15 *STAY.—*

16 *(1) IN GENERAL.—Section 362(b) of title*
17 *11, United States Code, is amended—*

18 *(A) in paragraph (6), by inserting*
19 *“, pledged to, under the control of,”*
20 *after “held by”;*

21 *(B) in paragraph (7), by inserting*
22 *“, pledged to, under the control of,”*
23 *after “held by”;*

24 *(C) by striking paragraph (17)*
25 *and inserting the following:*

1 “(17) under subsection (a), of the
2 setoff by a swap participant or financial
3 participant of a mutual debt and claim
4 under or in connection with one or more
5 swap agreements that constitutes the
6 setoff of a claim against the debtor for
7 any payment or other transfer of property
8 due from the debtor under or in connec-
9 tion with any swap agreement against
10 any payment due to the debtor from the
11 swap participant or financial participant
12 under or in connection with any swap
13 agreement or against cash, securities, or
14 other property held by, pledged to, under
15 the control of, or due from such swap par-
16 ticipant or financial participant to mar-
17 gin, guarantee, secure, or settle any swap
18 agreement;”;

19 (D) in paragraph (18) by striking
20 the period at the end and inserting
21 “; or”; and

22 (E) by inserting after paragraph
23 (18) the following new paragraph:

24 “(19) under subsection (a), of the
25 setoff by a master netting agreement par-

1 *participant of a mutual debt and claim*
2 *under or in connection with one or more*
3 *master netting agreements or any con-*
4 *tract or agreement subject to such agree-*
5 *ments that constitutes the setoff of a*
6 *claim against the debtor for any payment*
7 *or other transfer of property due from the*
8 *debtor under or in connection with such*
9 *agreements or any contract or agreement*
10 *subject to such agreements against any*
11 *payment due to the debtor from such mas-*
12 *ter netting agreement participant under*
13 *or in connection with such agreements or*
14 *any contract or agreement subject to such*
15 *agreements or against cash, securities, or*
16 *other property held by, pledged to, under*
17 *the control of, or due from such master*
18 *netting agreement participant to margin,*
19 *guarantee, secure, or settle such agree-*
20 *ments or any contract or agreement sub-*
21 *ject to such agreements, to the extent that*
22 *such participant is eligible to exercise*
23 *such offset rights under paragraph (6),*
24 *(7), or (17) for each individual contract*

1 *covered by the master netting agreement*
2 *in issue.”.*

3 (2) *LIMITATION.—Section 362 of title 11,*
4 *United States Code, is amended by adding*
5 *at the end the following:*

6 “(i) *The exercise of rights not subject to the*
7 *stay arising under subsection (a) pursuant to*
8 *paragraph (6), (7), (17), or (19) of subsection*
9 *(b) shall not be stayed by any order of a court*
10 *or administrative agency in any proceeding*
11 *under this title.”.*

12 (e) *LIMITATION OF AVOIDANCE POWERS*
13 *UNDER MASTER NETTING AGREEMENT.—Section*
14 *546 of title 11, United States Code, is amend-*
15 *ed—*

16 (1) *in subsection (g) (as added by sec-*
17 *tion 103 of Public Law 101-311)—*

18 (A) *by striking “under a swap*
19 *agreement”;*

20 (B) *by striking “in connection with*
21 *a swap agreement” and inserting*
22 *“under or in connection with any*
23 *swap agreement”; and*

1 (C) *by inserting “or financial par-*
2 *ticipant” after “swap participant”*
3 *each place such term appears; and*

4 (2) *by adding at the end the following:*

5 “(i) *Notwithstanding sections 544, 545, 547,*
6 *548(a)(1)(B), and 548(b) the trustee may not*
7 *avoid a transfer made by or to a master net-*
8 *ting agreement participant under or in con-*
9 *nection with any master netting agreement or*
10 *any individual contract covered thereby that*
11 *is made before the commencement of the case,*
12 *except under section 548(a)(1)(A) and except to*
13 *the extent that the trustee could otherwise*
14 *avoid such a transfer made under an indi-*
15 *vidual contract covered by such master netting*
16 *agreement.”.*

17 (f) *FRAUDULENT TRANSFERS OF MASTER NET-*
18 *TING AGREEMENTS.—Section 548(d)(2) of title*
19 *11, United States Code, is amended—*

20 (1) *in subparagraph (C), by striking*
21 *“and” at the end;*

22 (2) *in subparagraph (D), by striking*
23 *the period and inserting “; and”; and*

24 (3) *by adding at the end the following*
25 *new subparagraph:*

1 “(E) a master netting agreement par-
 2 ticipant that receives a transfer in con-
 3 nection with a master netting agreement
 4 or any individual contract covered there-
 5 by takes for value to the extent of such
 6 transfer, except that, with respect to a
 7 transfer under any individual contract
 8 covered thereby, to the extent that such
 9 master netting agreement participant oth-
 10 erwise did not take (or is otherwise not
 11 deemed to have taken) such transfer for
 12 value.”.

13 (g) **TERMINATION OR ACCELERATION OF SE-**
 14 **CURITIES CONTRACTS.**—Section 555 of title 11,
 15 United States Code, is amended—

16 (1) by amending the section heading
 17 to read as follows:

18 “§555. Contractual right to liquidate, terminate, or
 19 accelerate a securities contract”;

20 (2) in the first sentence, by striking
 21 “liquidation” and inserting “liquidation,
 22 termination, or acceleration”.

23 (h) **TERMINATION OR ACCELERATION OF COM-**
 24 **MODITIES OR FORWARD CONTRACTS.**—Section

1 *556 of title 11, United States Code, is amend-*
2 *ed—*

3 *(1) by amending the section heading*
4 *to read as follows:*

5 *“§556. Contractual right to liquidate, terminate, or*
6 *accelerate a commodities contract or for-*
7 *ward contract”;*

8 *(2) in the first sentence, by striking*
9 *“liquidation” and inserting “liquidation,*
10 *termination, or acceleration”;* and

11 *(3) in the second sentence, by striking*
12 *“As used” and all that follows through*
13 *“right,” and inserting “As used in this sec-*
14 *tion, the term ‘contractual right’ includes*
15 *a right set forth in a rule or bylaw of a de-*
16 *rivatives clearing organization (as de-*
17 *fin ed in the Commodity Exchange Act), a*
18 *multilateral clearing organization (as de-*
19 *fin ed in the Federal Deposit Insurance*
20 *Corporation Improvement Act of 1991), a*
21 *national securities exchange, a national*
22 *securities association, a securities clear-*
23 *ing agency, a contract market designated*
24 *under the Commodity Exchange Act, a de-*
25 *rivatives transaction execution facility*

1 *registered under the Commodity Exchange*
2 *Act, or a board of trade (as defined in the*
3 *Commodity Exchange Act) or in a resolu-*
4 *tion of the governing board thereof and a*
5 *right,”.*

6 *(i) TERMINATION OR ACCELERATION OF RE-*
7 *PURCHASE AGREEMENTS.—Section 559 of title 11,*
8 *United States Code, is amended—*

9 *(1) by amending the section heading*
10 *to read as follows:*

11 *“§559. Contractual right to liquidate, terminate, or*
12 *accelerate a repurchase agreement”;*

13 *(2) in the first sentence, by striking*
14 *“liquidation” and inserting “liquidation,*
15 *termination, or acceleration”; and*

16 *(3) in the third sentence, by striking*
17 *“As used” and all that follows through*
18 *“right,” and inserting “As used in this sec-*
19 *tion, the term ‘contractual right’ includes*
20 *a right set forth in a rule or bylaw of a de-*
21 *rivatives clearing organization (as de-*
22 *fined in the Commodity Exchange Act), a*
23 *multilateral clearing organization (as de-*
24 *fined in the Federal Deposit Insurance*
25 *Corporation Improvement Act of 1991), a*

1 *national securities exchange, a national*
2 *securities association, a securities clear-*
3 *ing agency, a contract market designated*
4 *under the Commodity Exchange Act, a de-*
5 *rivatives transaction execution facility*
6 *registered under the Commodity Exchange*
7 *Act, or a board of trade (as defined in the*
8 *Commodity Exchange Act) or in a resolu-*
9 *tion of the governing board thereof and a*
10 *right,”.*

11 (j) *LIQUIDATION, TERMINATION, OR ACCEL-*
12 *ERATION OF SWAP AGREEMENTS.—Section 560 of*
13 *title 11, United States Code, is amended—*

14 (1) *by amending the section heading*
15 *to read as follows:*

16 “§560. *Contractual right to liquidate, terminate, or*
17 *accelerate a swap agreement*”;

18 (2) *in the first sentence, by striking*
19 *“termination of a swap agreement” and*
20 *inserting “liquidation, termination, or ac-*
21 *celeration of one or more swap agree-*
22 *ments*”;

23 (3) *by striking “in connection with any*
24 *swap agreement” and inserting “in con-*
25 *nection with the termination, liquidation,*

1 *or acceleration of one or more swap agree-*
2 *ments”;* and

3 (4) *in the second sentence, by striking*
4 *“As used” and all that follows through*
5 *“right,” and inserting “As used in this sec-*
6 *tion, the term ‘contractual right’ includes*
7 *a right set forth in a rule or bylaw of a de-*
8 *rivatives clearing organization (as de-*
9 *defined in the Commodity Exchange Act), a*
10 *multilateral clearing organization (as de-*
11 *defined in the Federal Deposit Insurance*
12 *Corporation Improvement Act of 1991), a*
13 *national securities exchange, a national*
14 *securities association, a securities clear-*
15 *ing agency, a contract market designated*
16 *under the Commodity Exchange Act, a de-*
17 *rivatives transaction execution facility*
18 *registered under the Commodity Exchange*
19 *Act, or a board of trade (as defined in the*
20 *Commodity Exchange Act) or in a resolu-*
21 *tion of the governing board thereof and a*
22 *right,”.*

23 *(k) LIQUIDATION, TERMINATION, ACCELERA-*
24 *TION, OR OFFSET UNDER A MASTER NETTING*
25 *AGREEMENT AND ACROSS CONTRACTS.—*

1 **(1) IN GENERAL.—Title 11, United**
2 **States Code, is amended by inserting after**
3 **section 560 the following:**

4 **“§561. Contractual right to terminate, liquidate, ac-**
5 **celerate, or offset under a master netting**
6 **agreement and across contracts; pro-**
7 **ceedings under section 304**

8 **“(a) Subject to subsection (b), the exercise**
9 **of any contractual right, because of a condi-**
10 **tion of the kind specified in section 365(e)(1),**
11 **to cause the termination, liquidation, or accel-**
12 **eration of or to offset or net termination val-**
13 **ues, payment amounts, or other transfer obli-**
14 **gations arising under or in connection with**
15 **one or more (or the termination, liquidation,**
16 **or acceleration of one or more)—**

17 **“(1) securities contracts, as defined in**
18 **section 741(7);**

19 **“(2) commodity contracts, as defined**
20 **in section 761(4);**

21 **“(3) forward contracts;**

22 **“(4) repurchase agreements;**

23 **“(5) swap agreements; or**

24 **“(6) master netting agreements,**

1 *shall not be stayed, avoided, or otherwise lim-*
2 *ited by operation of any provision of this title*
3 *or by any order of a court or administrative*
4 *agency in any proceeding under this title.*

5 “(b)(1) *A party may exercise a contractual*
6 *right described in subsection (a) to terminate,*
7 *liquidate, or accelerate only to the extent that*
8 *such party could exercise such a right under*
9 *section 555, 556, 559, or 560 for each individual*
10 *contract covered by the master netting agree-*
11 *ment in issue.*

12 “(2) *If a debtor is a commodity broker sub-*
13 *ject to subchapter IV of chapter 7—*

14 “(A) *a party may not net or offset an*
15 *obligation to the debtor arising under, or*
16 *in connection with, a commodity contract*
17 *traded on or subject to the rules of a con-*
18 *tract market designated under the Com-*
19 *modity Exchange Act or a derivatives*
20 *transaction execution facility registered*
21 *under the Commodity Exchange Act*
22 *against any claim arising under, or in*
23 *connection with, other instruments, con-*
24 *tracts, or agreements listed in subsection*
25 *(a) except to the extent that the party has*

1 *positive net equity in the commodity ac-*
2 *counts at the debtor, as calculated under*
3 *such subchapter; and*

4 *“(B) another commodity broker may*
5 *not net or offset an obligation to the debt-*
6 *or arising under, or in connection with, a*
7 *commodity contract entered into or held*
8 *on behalf of a customer of the debtor and*
9 *traded on or subject to the rules of a con-*
10 *tract market designated under the Com-*
11 *modity Exchange Act or a derivatives*
12 *transaction execution facility registered*
13 *under the Commodity Exchange Act*
14 *against any claim arising under, or in*
15 *connection with, other instruments, con-*
16 *tracts, or agreements listed in subsection*
17 *(a).*

18 *“(3) No provision of subparagraph (A) or*
19 *(B) of paragraph (2) shall prohibit the offset*
20 *of claims and obligations that arise under—*

21 *“(A) a cross-margining agreement or*
22 *similar arrangement that has been ap-*
23 *proved by the Commodity Futures Trading*
24 *Commission or submitted to the Com-*
25 *modity Futures Trading Commission*

1 *under paragraph (1) or (2) of section 5c(c)*
2 *of the Commodity Exchange Act and has*
3 *not been abrogated or rendered ineffective*
4 *by the Commodity Futures Trading Com-*
5 *mission; or*

6 *“(B) any other netting agreement be-*
7 *tween a clearing organization (as defined*
8 *in section 761) and another entity that*
9 *has been approved by the Commodity Fu-*
10 *tures Trading Commission.*

11 *“(c) As used in this section, the term ‘con-*
12 *tractual right’ includes a right set forth in a*
13 *rule or bylaw of a derivatives clearing organi-*
14 *zation (as defined in the Commodity Exchange*
15 *Act), a multilateral clearing organization (as*
16 *defined in the Federal Deposit Insurance Cor-*
17 *poration Improvement Act of 1991), a national*
18 *securities exchange, a national securities asso-*
19 *ciation, a securities clearing agency, a con-*
20 *tract market designated under the Commodity*
21 *Exchange Act, a derivatives transaction execu-*
22 *tion facility registered under the Commodity*
23 *Exchange Act, or a board of trade (as defined*
24 *in the Commodity Exchange Act) or in a reso-*
25 *lution of the governing board thereof, and a*

1 *right, whether or not evidenced in writing,*
 2 *arising under common law, under law mer-*
 3 *chant, or by reason of normal business prac-*
 4 *tice.*

5 “(d) Any provisions of this title relating to
 6 *securities contracts, commodity contracts, for-*
 7 *ward contracts, repurchase agreements, swap*
 8 *agreements, or master netting agreements*
 9 *shall apply in a case under section 304, so that*
 10 *enforcement of contractual provisions of such*
 11 *contracts and agreements in accordance with*
 12 *their terms will not be stayed or otherwise lim-*
 13 *ited by operation of any provision of this title*
 14 *or by order of a court in any case under this*
 15 *title, and to limit avoidance powers to the*
 16 *same extent as in a proceeding under chapter*
 17 *7 or 11 of this title (such enforcement not to*
 18 *be limited based on the presence or absence of*
 19 *assets of the debtor in the United States).”.*

20 (2) **CONFORMING AMENDMENT.**—*The*
 21 *table of sections for chapter 5 of title 11,*
 22 *United States Code, is amended by insert-*
 23 *ing after the item relating to section 560*
 24 *the following:*

“561. *Contractual right to terminate, liquidate, accelerate, or*
offset under a master netting agreement and
across contracts; proceedings under section 304.”.

1 ***(l) COMMODITY BROKER LIQUIDATIONS.—***
2 ***Title 11, United States Code, is amended by in-***
3 ***serting after section 766 the following:***

4 ***“§ 767. Commodity broker liquidation and forward***
5 ***contract merchants, commodity brokers,***
6 ***stockbrokers, financial institutions, fi-***
7 ***nancial participants, securities clearing***
8 ***agencies, swap participants, repo partici-***
9 ***pants, and master netting agreement par-***
10 ***ticipants***

11 ***“Notwithstanding any other provision of***
12 ***this title, the exercise of rights by a forward***
13 ***contract merchant, commodity broker, stock-***
14 ***broker, financial institution, financial partic-***
15 ***ipant, securities clearing agency, swap partic-***
16 ***ipant, repo participant, or master netting***
17 ***agreement participant under this title shall***
18 ***not affect the priority of any unsecured claim***
19 ***it may have after the exercise of such rights.”.***

20 ***(m) STOCKBROKER LIQUIDATIONS.—Title 11,***
21 ***United States Code, is amended by inserting***
22 ***after section 752 the following:***

1 ***“§ 753. Stockbroker liquidation and forward contract***
 2 ***merchants, commodity brokers, stock-***
 3 ***brokers, financial institutions, financial***
 4 ***participants, securities clearing agencies,***
 5 ***swap participants, repo participants, and***
 6 ***master netting agreement participants***

7 ***“Notwithstanding any other provision of***
 8 ***this title, the exercise of rights by a forward***
 9 ***contract merchant, commodity broker, stock-***
 10 ***broker, financial institution, securities clear-***
 11 ***ing agency, swap participant, repo partici-***
 12 ***pant, financial participant, or master netting***
 13 ***agreement participant under this title shall***
 14 ***not affect the priority of any unsecured claim***
 15 ***it may have after the exercise of such rights.”.***

16 ***(n) SETOFF.—Section 553 of title 11, United***
 17 ***States Code, is amended—***

18 ***(1) in subsection (a)(2)(B)(ii), by in-***
 19 ***serting before the semicolon the following:***
 20 ***“(except for a setoff of a kind described in***
 21 ***section 362(b)(6), 362(b)(7), 362(b)(17),***
 22 ***362(b)(19), 555, 556, 559, 560, or 561)”;***

23 ***(2) in subsection (a)(3)(C), by insert-***
 24 ***ing before the period the following: “(ex-***
 25 ***cept for a setoff of a kind described in sec-***
 26 ***tion 362(b)(6), 362(b)(7), 362(b)(17),***

1 ***362(b)(19), 555, 556, 559, 560, or 561 of this***
2 ***title)***; and

3 ***(3) in subsection (b)(1), by striking***
4 ***“362(b)(14),” and inserting “362(b)(17),***
5 ***362(b)(19), 555, 556, 559, 560, 561,”.***

6 ***(o) SECURITIES CONTRACTS, COMMODITY***
7 ***CONTRACTS, AND FORWARD CONTRACTS.—Title***
8 ***11, United States Code, is amended—***

9 ***(1) in section 362(b)(6), by striking “fi-***
10 ***nancial institutions,” each place such***
11 ***term appears and inserting “financial in-***
12 ***stitution, financial participant,”;***

13 ***(2) in sections 362(b)(7) and 546(f), by***
14 ***inserting “or financial participant” after***
15 ***“repo participant” each place such term***
16 ***appears;***

17 ***(3) in section 546(e), by inserting “fi-***
18 ***nancial participant,” after “financial in-***
19 ***stitution,”;***

20 ***(4) in section 548(d)(2)(B), by inserting***
21 ***“financial participant,” after “financial***
22 ***institution,”;***

23 ***(5) in section 548(d)(2)(C), by inserting***
24 ***“or financial participant” after “repo par-***
25 ***ticipant”;***

1 (6) *in section 548(d)(2)(D), by insert-*
2 *ing “or financial participant” after “swap*
3 *participant”;*

4 (7) *in section 555—*

5 (A) *by inserting “financial partici-*
6 *pant,” after “financial institution,”;*
7 *and*

8 (B) *by striking the second sentence*
9 *and inserting the following: “As used*
10 *in this section, the term ‘contractual*
11 *right’ includes a right set forth in a*
12 *rule or bylaw of a derivatives clearing*
13 *organization (as defined in the Com-*
14 *modity Exchange Act), a multilateral*
15 *clearing organization (as defined in*
16 *the Federal Deposit Insurance Cor-*
17 *poration Improvement Act of 1991), a*
18 *national securities exchange, a na-*
19 *tional securities association, a securi-*
20 *ties clearing agency, a contract mar-*
21 *ket designated under the Commodity*
22 *Exchange Act, a derivatives trans-*
23 *action execution facility registered*
24 *under the Commodity Exchange Act,*
25 *or a board of trade (as defined in the*

1 *Commodity Exchange Act*), or in a res-
 2 *olution of the governing board there-*
 3 *of, and a right, whether or not in writ-*
 4 *ing, arising under common law, under*
 5 *law merchant, or by reason of normal*
 6 *business practice”;*

7 (8) in section 556, by inserting “, fi-
 8 *nancial participant,” after “commodity*
 9 *broker”;*

10 (9) in section 559, by inserting “or fi-
 11 *nancial participant” after “repo partici-*
 12 *pant” each place such term appears; and*

13 (10) in section 560, by inserting “or fi-
 14 *nancial participant” after “swap partici-*
 15 *pant”.*

16 (p) *CONFORMING AMENDMENTS.—Title 11,*
 17 *United States Code, is amended—*

18 (1) in the table of sections for chapter
 19 5—

20 (A) by amending the items relat-
 21 ing to sections 555 and 556 to read as
 22 follows:

 “555. Contractual right to liquidate, terminate, or accelerate a
 securities contract.

 “556. Contractual right to liquidate, terminate, or accelerate a
 commodities contract or forward contract.”;

23 and

1 ***(B) by amending the items relat-***
 2 ***ing to sections 559 and 560 to read as***
 3 ***follows:***

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

4 ***and***

5 ***(2) in the table of sections for chapter***
 6 ***7—***

7 ***(A) by inserting after the item re-***
 8 ***lating to section 766 the following:***

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

9 ***and***

10 ***(B) by inserting after the item re-***
 11 ***lating to section 752 the following:***

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

12 ***SEC. 5082H. RECORDKEEPING REQUIREMENTS.***

13 ***(a) FDIC-INSURED DEPOSITORY INSTITU-***
 14 ***TIONS.—Section 11(e)(8) of the Federal Deposit***
 15 ***Insurance Act (12 U.S.C. 1821(e)(8)) is amend-***
 16 ***ed by adding at the end the following new sub-***
 17 ***paragraph:***

1 **“(H) RECORDKEEPING REQUIRE-**
2 **MENTS.—***The Corporation, in consulta-*
3 *tion with the appropriate Federal*
4 *banking agencies and the National*
5 *Credit Union Administration Board,*
6 *may prescribe regulations requiring*
7 *more detailed recordkeeping by any*
8 *insured depository institution with re-*
9 *spect to qualified financial contracts*
10 *(including market valuations) only if*
11 *such insured depository institution is*
12 *in a troubled condition (as such term*
13 *is defined by the Corporation pursu-*
14 *ant to section 32).”.*

15 **(b) INSURED CREDIT UNIONS.—***Section*
16 *207(c)(8) of the Federal Credit Union Act (12*
17 *U.S.C. 1787(c)(8)) is amended by adding at the*
18 *end the following new subparagraph:*

19 **“(H) RECORDKEEPING REQUIRE-**
20 **MENTS.—***The Board, in consultation*
21 *with the appropriate Federal banking*
22 *agencies, may prescribe regulations*
23 *requiring more detailed record-*
24 *keeping by any insured credit union*
25 *with respect to qualified financial*

1 *contracts (including market valu-*
 2 *ations) only if such insured credit*
 3 *union is in a troubled condition (as*
 4 *such term is defined by the Board pur-*
 5 *suant to section 212).”.*

6 *SEC. 5082I. EXEMPTIONS FROM CONTEMPORANEOUS EXE-*
 7 *CUTION REQUIREMENT.*

8 *Section 13(e)(2) of the Federal Deposit In-*
 9 *surance Act (12 U.S.C. 1823(e)(2)) is amended*
 10 *to read as follows:*

11 *“(2) EXEMPTIONS FROM CONTEMPORA-*
 12 *NEOUS EXECUTION REQUIREMENT.—An*
 13 *agreement to provide for the lawful*
 14 *collateralization of—*

15 *“(A) deposits of, or other credit ex-*
 16 *tension by, a Federal, State, or local*
 17 *governmental entity, or of any deposi-*
 18 *tor referred to in section 11(a)(2), in-*
 19 *cluding an agreement to provide col-*
 20 *lateral in lieu of a surety bond;*

21 *“(B) bankruptcy estate funds pur-*
 22 *suant to section 345(b)(2) of title 11,*
 23 *United States Code;*

24 *“(C) extensions of credit, includ-*
 25 *ing any overdraft, from a Federal re-*

1 *serve bank or Federal home loan*
 2 *bank; or*

3 *“(D) one or more qualified finan-*
 4 *cial contracts, as defined in section*
 5 *11(e)(8)(D),*

6 *shall not be deemed invalid pursuant to*
 7 *paragraph (1)(B) solely because such*
 8 *agreement was not executed contempora-*
 9 *neously with the acquisition of the collat-*
 10 *eral or because of pledges, delivery, or*
 11 *substitution of the collateral made in ac-*
 12 *cordance with such agreement.”.*

13 *SEC. 5082J. DAMAGE MEASURE.*

14 *(a) IN GENERAL.—Title 11, United States*
 15 *Code, is amended—*

16 *(1) by inserting after section 561, as*
 17 *added by section 5082G(k)(1) of this sub-*
 18 *chapter, the following:*

19 *“§ 562. Timing of damage measurement in connection*
 20 *with swap agreements, securities con-*
 21 *tracts, forward contracts, commodity con-*
 22 *tracts, repurchase agreements, and mas-*
 23 *ter netting agreements*

24 *“(a) If the trustee rejects a swap agree-*
 25 *ment, securities contract (as defined in section*

1 *741), forward contract, commodity contract*
 2 *(as defined in section 761), repurchase agree-*
 3 *ment, or master netting agreement pursuant to*
 4 *section 365(a), or if a forward contract mer-*
 5 *chant, stockbroker, financial institution, secu-*
 6 *rities clearing agency, repo participant, finan-*
 7 *cial participant, master netting agreement*
 8 *participant, or swap participant liquidates,*
 9 *terminates, or accelerates such contract or*
 10 *agreement, damages shall be measured as of*
 11 *the earlier of—*

12 *“(1) the date of such rejection; or*

13 *“(2) the date or dates of such liquida-*
 14 *tion, termination, or acceleration.*

15 *“(b) If there are not any commercially rea-*
 16 *sonable determinants of value as of any date*
 17 *referred to in paragraph (1) or (2) of sub-*
 18 *section (a), damages shall be measured as of*
 19 *the earliest subsequent date or dates on which*
 20 *there are commercially reasonable deter-*
 21 *minants of value.*

22 *“(c) For the purposes of subsection (b), if*
 23 *damages are not measured as of the date or*
 24 *dates of rejection, liquidation, termination, or*
 25 *acceleration, and the forward contract mer-*

1 *chant, stockbroker, financial institution, secu-*
2 *rities clearing agency, repo participant, finan-*
3 *cial participant, master netting agreement*
4 *participant, or swap participant or the trustee*
5 *objects to the timing of the measurement of*
6 *damages—*

7 “(1) *the trustee, in the case of an ob-*
8 *jection by a forward contract merchant,*
9 *stockbroker, financial institution, securi-*
10 *ties clearing agency, repo participant, fi-*
11 *nancial participant, master netting agree-*
12 *ment participant, or swap participant; or*

13 “(2) *the forward contract merchant,*
14 *stockbroker, financial institution, securi-*
15 *ties clearing agency, repo participant, fi-*
16 *nancial participant, master netting agree-*
17 *ment participant, or swap participant, in*
18 *the case of an objection by the trustee,*
19 *has the burden of proving that there were no*
20 *commercially reasonable determinants of*
21 *value as of such date or dates.”; and*

22 (2) *in the table of sections for chapter*
23 *5, by inserting after the item relating to*
24 *section 561 (as added by section*

1 **5082G(k)(2) of this subchapter) the fol-**
 2 **lowing new item:**

“562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.”.

3 **(b) CLAIMS ARISING FROM REJECTION.—Sec-**
 4 **tion 502(g) of title 11, United States Code, is**
 5 **amended—**

6 **(1) by inserting “(1)” after “(g)”;** and
 7 **(2) by adding at the end the following:**

8 **“(2) A claim for damages calculated in ac-**
 9 **cordance with section 562 of this title shall be**
 10 **allowed under subsection (a), (b), or (c), or dis-**
 11 **allowed under subsection (d) or (e), as if such**
 12 **claim had arisen before the date of the filing**
 13 **of the petition.”.**

14 **SEC. 5082K. SIPC STAY.**

15 **Section 5(b)(2) of the Securities Investor**
 16 **Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is**
 17 **amended by adding at the end the following**
 18 **new subparagraph:**

19 **“(C) EXCEPTION FROM STAY.—**

20 **“(i) Notwithstanding section**
 21 **362 of title 11, United States Code,**
 22 **neither the filing of an applica-**
 23 **tion under subsection (a)(3) nor**

1 *any order or decree obtained by*
2 *SIPC from the court shall operate*
3 *as a stay of any contractual rights*
4 *of a creditor to liquidate, termi-*
5 *nate, or accelerate a securities*
6 *contract, commodity contract, for-*
7 *ward contract, repurchase agree-*
8 *ment, swap agreement, or master*
9 *netting agreement, as those terms*
10 *are defined in sections 101, 741,*
11 *and 761 of title 11, United States*
12 *Code, to offset or net termination*
13 *values, payment amounts, or other*
14 *transfer obligations arising under*
15 *or in connection with one or more*
16 *of such contracts or agreements,*
17 *or to foreclose on any cash collat-*
18 *eral pledged by the debtor, wheth-*
19 *er or not with respect to one or*
20 *more of such contracts or agree-*
21 *ments.*

22 “(ii) *Notwithstanding clause*
23 *(i), such application, order, or de-*
24 *cree may operate as a stay of the*
25 *foreclosure on, or disposition of,*

1 *securities collateral pledged by*
2 *the debtor, whether or not with re-*
3 *spect to one or more of such con-*
4 *tracts or agreements, securities*
5 *sold by the debtor under a repur-*
6 *chase agreement, or securities lent*
7 *under a securities lending agree-*
8 *ment.*

9 “(iii) *As used in this subpara-*
10 *graph, the term ‘contractual right’*
11 *includes a right set forth in a rule*
12 *or bylaw of a national securities*
13 *exchange, a national securities as-*
14 *sociation, or a securities clearing*
15 *agency, a right set forth in a*
16 *bylaw of a clearing organization*
17 *or contract market or in a resolu-*
18 *tion of the governing board there-*
19 *of, and a right, whether or not in*
20 *writing, arising under common*
21 *law, under law merchant, or by*
22 *reason of normal business prac-*
23 *tice.”.*

1 *SEC. 5082L. APPLICABILITY OF OTHER SECTIONS TO CHAP-*
2 *TER 9.*

3 *Section 901(a) of title 11, United States*
4 *Code, is amended—*

5 *(1) by inserting “555, 556,” after*
6 *“553,”; and*

7 *(2) by inserting “559, 560, 561, 562”*
8 *after “557,”.*

9 *SEC. 5082M. EFFECTIVE DATE; APPLICATION OF AMEND-*
10 *MENTS.*

11 *(a) EFFECTIVE DATE.—This subchapter*
12 *shall take effect on the date of enactment of*
13 *this Act.*

14 *(b) APPLICATION OF AMENDMENTS.—The*
15 *amendments made by this subchapter shall*
16 *apply with respect to cases commenced or ap-*
17 *pointments made under any Federal or State*
18 *law on or after the date of enactment of this*
19 *Act, but shall not apply with respect to cases*
20 *commenced or appointments made under any*
21 *Federal or State law before the date of enact-*
22 *ment of this Act.*

23 *SEC. 5082N. SAVINGS CLAUSE.*

24 *The meanings of terms used in this sub-*
25 *chapter are applicable for purposes of this*
26 *subchapter only, and shall not be construed or*

1 *applied so as to challenge or affect the charac-*
2 *terization, definition, or treatment of any simi-*
3 *lar terms under any other statute, regulation,*
4 *or rule, including the Gramm-Leach-Bliley*
5 *Act, the Legal Certainty for Bank Products Act*
6 *of 2000, the securities laws (as that term is de-*
7 *finied in section 3(a)(47) of the Securities Ex-*
8 *change Act of 1934), and the Commodity Ex-*
9 *change Act.*

10 ***Subchapter B—Emergency Securities***
11 ***Response***

12 ***SEC. 5086. SHORT TITLE.***

13 ***This subchapter may be cited as the***
14 ***“Emergency Securities Response Act of 2004”.***

15 ***SEC. 5087. EXTENSION OF EMERGENCY ORDER AUTHORITY***
16 ***OF THE SECURITIES AND EXCHANGE COMMIS-***
17 ***SION.***

18 ***(a) EXTENSION OF AUTHORITY.—Paragraph***
19 ***(2) of section 12(k) of the Securities Exchange***
20 ***Act of 1934 (15 U.S.C. 78l(k)(2)) is amended to***
21 ***read as follows:***

22 ***“(2) EMERGENCY.—(A) The Commission,***
23 ***in an emergency, may by order summarily***
24 ***take such action to alter, supplement, sus-***
25 ***pend, or impose requirements or restric-***

1 *tions with respect to any matter or action*
2 *subject to regulation by the Commission*
3 *or a self-regulatory organization under*
4 *the securities laws, as the Commission de-*
5 *termines is necessary in the public inter-*
6 *est and for the protection of investors—*

7 *“(i) to maintain or restore fair*
8 *and orderly securities markets (other*
9 *than markets in exempted securities);*

10 *“(ii) to ensure prompt, accurate,*
11 *and safe clearance and settlement of*
12 *transactions in securities (other than*
13 *exempted securities); or*

14 *“(iii) to reduce, eliminate, or pre-*
15 *vent the substantial disruption by the*
16 *emergency of (I) securities markets*
17 *(other than markets in exempted secu-*
18 *rities), investment companies, or any*
19 *other significant portion or segment of*
20 *such markets, or (II) the transmission*
21 *or processing of securities trans-*
22 *actions (other than transactions in ex-*
23 *empted securities).*

24 *“(B) An order of the Commission*
25 *under this paragraph (2) shall continue*

1 *in effect for the period specified by the*
2 *Commission, and may be extended. Except*
3 *as provided in subparagraph (C), the*
4 *Commission's action may not continue in*
5 *effect for more than 30 business days, in-*
6 *cluding extensions.*

7 *“(C) An order of the Commission*
8 *under this paragraph (2) may be extended*
9 *to continue in effect for more than 30*
10 *business days if, at the time of the exten-*
11 *sion, the Commission finds that the emer-*
12 *gency still exists and determines that the*
13 *continuation of the order beyond 30 busi-*
14 *ness days is necessary in the public inter-*
15 *est and for the protection of investors to*
16 *attain an objective described in clause (i),*
17 *(ii), or (iii) of subparagraph (A). In no*
18 *event shall an order of the Commission*
19 *under this paragraph (2) continue in ef-*
20 *fect for more than 90 calendar days.*

21 *“(D) If the actions described in sub-*
22 *paragraph (A) involve a security futures*
23 *product, the Commission shall consult*
24 *with and consider the views of the Com-*
25 *modity Futures Trading Commission. In*

1 *exercising its authority under this para-*
2 *graph, the Commission shall not be re-*
3 *quired to comply with the provisions of*
4 *section 553 of title 5, United States Code,*
5 *or with the provisions of section 19(c) of*
6 *this title.*

7 ***“(E) Notwithstanding the exclusion of***
8 ***exempted securities (and markets therein)***
9 ***from the Commission’s authority under***
10 ***subparagraph (A), the Commission may***
11 ***use such authority to take action to alter,***
12 ***supplement, suspend, or impose require-***
13 ***ments or restrictions with respect to clear-***
14 ***ing agencies for transactions in such ex-***
15 ***empted securities. In taking any action***
16 ***under this subparagraph, the Commission***
17 ***shall consult with and consider the views***
18 ***of the Secretary of the Treasury.”.***

19 ***(b) CONSULTATION; DEFINITION OF EMER-***
20 ***GENCY.—Section 12(k) of the Securities Ex-***
21 ***change Act of 1934 (15 U.S.C. 78l(k)) is further***
22 ***amended by striking paragraph (6) and insert-***
23 ***ing the following:***

24 ***“(6) CONSULTATION.—Prior to taking***
25 ***any action described in paragraph (1)(B),***

1 *the Commission shall consult with and*
2 *consider the views of the Secretary of the*
3 *Treasury, Board of Governors of the Fed-*
4 *eral Reserve System, and the Commodity*
5 *Futures Trading Commission, unless such*
6 *consultation is impracticable in light of*
7 *the emergency.*

8 **“(7) DEFINITIONS.—**

9 **“(A) EMERGENCY.—For purposes of**
10 **this subsection, the term ‘emergency’**
11 **means—**

12 **“(i) a major market disturb-**
13 **ance characterized by or consti-**
14 **tuting—**

15 **“(I) sudden and excessive**
16 **fluctuations of securities**
17 **prices generally, or a substan-**
18 **tial threat thereof, that threat-**
19 **en fair and orderly markets;**
20 **or**

21 **“(II) a substantial disrup-**
22 **tion of the safe or efficient op-**
23 **eration of the national system**
24 **for clearance and settlement**
25 **of transactions in securities,**

1 *or a substantial threat there-*
 2 *of; or*

3 *“(ii) a major disturbance that*
 4 *substantially disrupts, or threat-*
 5 *ens to substantially disrupt—*

6 *“(I) the functioning of se-*
 7 *curities markets, investment*
 8 *companies, or any other sig-*
 9 *nificant portion or segment of*
 10 *the securities markets; or*

11 *“(II) the transmission or*
 12 *processing of securities trans-*
 13 *actions.*

14 *“(B) SECURITIES LAWS.—Notwith-*
 15 *standing section 3(a)(47), for purposes*
 16 *of this subsection, the term ‘securities*
 17 *laws’ does not include the Public Util-*
 18 *ity Holding Company Act of 1935 (15*
 19 *U.S.C. 79a et seq.).”.*

20 *SEC. 5088. PARALLEL AUTHORITY OF THE SECRETARY OF*
 21 *THE TREASURY WITH RESPECT TO GOVERN-*
 22 *MENT SECURITIES.*

23 *Section 15C of the Securities Exchange Act*
 24 *of 1934 (15 U.S.C. 78o–5) is amended by adding*
 25 *at the end the following new subsection:*

1 “(h) **EMERGENCY AUTHORITY.**—*The Sec-*
2 *retary may by order take any action with re-*
3 *spect to a matter or action subject to regula-*
4 *tion by the Secretary under this section, or the*
5 *rules of the Secretary thereunder, involving a*
6 *government security or a market therein (or*
7 *significant portion or segment of that market),*
8 *that the Commission may take under section*
9 *12(k)(2) of this title with respect to trans-*
10 *actions in securities (other than exempted se-*
11 *curities) or a market therein (or significant*
12 *portion or segment of that market).”.*

13 **SEC. 5089. JOINT REPORT ON IMPLEMENTATION OF FINAN-**
14 **CIAL SYSTEM RESILIENCE RECOMMENDA-**
15 **TIONS.**

16 “(a) **REPORT REQUIRED.**—*Not later than*
17 *April 30, 2006, the Board of Governors of the*
18 *Federal Reserve System, the Comptroller of the*
19 *Currency, and the Securities and Exchange*
20 *Commission shall prepare and submit to the*
21 *Committee on Financial Services of the House*
22 *of Representatives and the Committee on*
23 *Banking, Housing, and Urban Affairs of the*
24 *Senate a joint report on the efforts of the pri-*
25 *vate sector to implement the Interagency*

1 *Paper on Sound Practices to Strengthen the*
2 *Resilience of the U.S. Financial System.*

3 (b) *CONTENTS OF REPORT.—The report re-*
4 *quired by subsection (a) shall—*

5 (1) *examine the efforts to date of cov-*
6 *ered private sector financial services*
7 *firms to implement enhanced business*
8 *continuity plans;*

9 (2) *examine the extent to which the*
10 *implementation of business continuity*
11 *plans has been done in a geographically*
12 *dispersed manner, including an analysis*
13 *of the extent to which such firms have lo-*
14 *cated their main and backup facilities in*
15 *separate electrical networks, in different*
16 *watersheds, in independent transpor-*
17 *tation systems, and using separate tele-*
18 *communications centers;*

19 (3) *examine the need to cover more fi-*
20 *nancial services entities than those cov-*
21 *ered by the Interagency Paper; and*

22 (4) *recommend legislative and regu-*
23 *latory changes that will—*

24 (A) *expedite the effective imple-*
25 *mentation of the Interagency Paper by*

1 *all covered financial services entities;*
2 *and*

3 *(B) maximize the effective imple-*
4 *mentation of business continuity plan-*
5 *ning by all participants in the finan-*
6 *cial services industry.*

7 (c) **CONFIDENTIALITY.**—*Any information*
8 *provided to the Federal Reserve Board, the*
9 *Comptroller of the Currency, or the Securities*
10 *and Exchange Commission for the purposes of*
11 *the preparation and submission of the report*
12 *required by subsection (a) shall be treated as*
13 *privileged and confidential. For purposes of*
14 *section 552 of title 5, United States Code, this*
15 *subsection shall be considered a statute de-*
16 *scribed in subsection (b)(3)(B) of such section*
17 *552.*

18 (d) **DEFINITION.**—*The Interagency Paper on*
19 *Sound Practices to Strengthen the Resilience*
20 *of the U.S. Financial System is the interagency*
21 *paper prepared by the Board of Governors of*
22 *the Federal Reserve System, the Comptroller of*
23 *the Currency, and the Securities and Ex-*
24 *change Commission that was announced in*
25 *the Federal Register on April 8, 2003.*

1 SEC. 5089A. PRIVATE SECTOR PREPAREDNESS.

2 *It is the sense of the Congress that the in-*
3 *surance industry and credit-rating agencies,*
4 *where relevant, should carefully consider a*
5 *company's compliance with standards for pri-*
6 *vate sector disaster and emergency prepared-*
7 *ness in assessing insurability and credit-*
8 *worthiness, to ensure that private sector in-*
9 *vestment in disaster and emergency prepared-*
10 *ness is appropriately encouraged.*

11 SEC. 5089B. REPORT ON PUBLIC/PRIVATE PARTNERSHIPS.

12 *Before the end of the 6-month period begin-*
13 *ning on the date of the enactment of this Act,*
14 *the Secretary of the Treasury shall submit a*
15 *report to the Committee on Financial Services*
16 *of the House of Representatives and the Com-*
17 *mittee on Banking, Housing, and Urban Af-*
18 *airs of the Senate containing—*

19 *(1) information on the efforts the De-*
20 *partment of the Treasury has made to en-*
21 *courage the formation of public/private*
22 *partnerships to protect critical financial*
23 *infrastructure and the type of support*
24 *that the Department has provided to these*
25 *partnerships; and*

1 (2) *recommendations for administra-*
 2 *tive or legislative action regarding these*
 3 *partnerships as the Secretary may deter-*
 4 *mine to be appropriate.*

5 ***Subtitle H—Other Matters***

6 ***CHAPTER 1—PRIVACY MATTERS***

7 ***SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING***
 8 ***TAKE INTO CONSIDERATION IMPACTS ON IN-***
 9 ***DIVIDUAL PRIVACY.***

10 ***(a) SHORT TITLE.—This section may be***
 11 ***cited as the “Federal Agency Protection of Pri-***
 12 ***vac y Act of 2004”.***

13 ***(b) IN GENERAL.—Title 5, United States***
 14 ***Code, is amended by adding after section 553***
 15 ***the following new section:***

16 ***“§ 553a. Privacy impact assessment in rulemaking***

17 ***“(a) INITIAL PRIVACY IMPACT ASSESSMENT.—***

18 ***“(1) IN GENERAL.—Whenever an agency***
 19 ***is required by section 553 of this title, or***
 20 ***any other law, to publish a general notice***
 21 ***of proposed rulemaking for a proposed***
 22 ***rule, or publishes a notice of proposed***
 23 ***rulemaking for an interpretative rule in-***
 24 ***volving the internal revenue laws of the***
 25 ***United States, and such rule or proposed***

1 *rulemaking pertains to the collection,*
2 *maintenance, use, or disclosure of person-*
3 *ally identifiable information from 10 or*
4 *more individuals, other than agencies, in-*
5 *strumentalities, or employees of the Fed-*
6 *eral government, the agency shall prepare*
7 *and make available for public comment*
8 *an initial privacy impact assessment that*
9 *describes the impact of the proposed rule*
10 *on the privacy of individuals. Such assess-*
11 *ment or a summary thereof shall be*
12 *signed by the senior agency official with*
13 *primary responsibility for privacy policy*
14 *and be published in the Federal Register*
15 *at the time of the publication of a general*
16 *notice of proposed rulemaking for the*
17 *rule.*

18 *“(2) CONTENTS.—Each initial privacy*
19 *impact assessment required under this*
20 *subsection shall contain the following:*

21 *“(A) A description and analysis of*
22 *the extent to which the proposed rule*
23 *will impact the privacy interests of in-*
24 *dividuals, including the extent to*
25 *which the proposed rule—*

1 “(i) *provides notice of the col-*
2 *lection of personally identifiable*
3 *information, and specifies what*
4 *personally identifiable informa-*
5 *tion is to be collected and how it is*
6 *to be collected, maintained, used,*
7 *and disclosed;*

8 “(ii) *allows access to such in-*
9 *formation by the person to whom*
10 *the personally identifiable infor-*
11 *mation pertains and provides an*
12 *opportunity to correct inaccura-*
13 *cies;*

14 “(iii) *prevents such informa-*
15 *tion, which is collected for one*
16 *purpose, from being used for an-*
17 *other purpose; and*

18 “(iv) *provides security for such*
19 *information.*

20 “(B) *A description of any signifi-*
21 *cant alternatives to the proposed rule*
22 *which accomplish the stated objec-*
23 *tives of applicable statutes and which*
24 *minimize any significant privacy im-*

1 *pact of the proposed rule on individ-*
2 *uals.*

3 ***“(b) FINAL PRIVACY IMPACT ASSESSMENT.—***

4 ***“(1) IN GENERAL.—Whenever an agency***
5 ***promulgates a final rule under section***
6 ***553 of this title, after being required by***
7 ***that section or any other law to publish a***
8 ***general notice of proposed rulemaking, or***
9 ***promulgates a final interpretative rule in-***
10 ***volving the internal revenue laws of the***
11 ***United States, and such rule or proposed***
12 ***rulemaking pertains to the collection,***
13 ***maintenance, use, or disclosure of person-***
14 ***ally identifiable information from 10 or***
15 ***more individuals, other than agencies, in-***
16 ***strumentalities, or employees of the Fed-***
17 ***eral government, the agency shall prepare***
18 ***a final privacy impact assessment, signed***
19 ***by the senior agency official with primary***
20 ***responsibility for privacy policy.***

21 ***“(2) CONTENTS.—Each final privacy***
22 ***impact assessment required under this***
23 ***subsection shall contain the following:***

24 ***“(A) A description and analysis of***
25 ***the extent to which the final rule will***

1 *impact the privacy interests of indi-*
2 *viduals, including the extent to which*
3 *such rule—*

4 “(i) *provides notice of the col-*
5 *lection of personally identifiable*
6 *information, and specifies what*
7 *personally identifiable informa-*
8 *tion is to be collected and how it is*
9 *to be collected, maintained, used,*
10 *and disclosed;*

11 “(ii) *allows access to such in-*
12 *formation by the person to whom*
13 *the personally identifiable infor-*
14 *mation pertains and provides an*
15 *opportunity to correct inaccura-*
16 *cies;*

17 “(iii) *prevents such informa-*
18 *tion, which is collected for one*
19 *purpose, from being used for an-*
20 *other purpose; and*

21 “(iv) *provides security for such*
22 *information.*

23 “(B) *A summary of any significant*
24 *issues raised by the public comments*
25 *in response to the initial privacy im-*

1 *pact assessment, a summary of the*
2 *analysis of the agency of such issues,*
3 *and a statement of any changes made*
4 *in such rule as a result of such issues.*

5 *“(C) A description of the steps the*
6 *agency has taken to minimize the sig-*
7 *nificant privacy impact on individ-*
8 *uals consistent with the stated objec-*
9 *tives of applicable statutes, including*
10 *a statement of the factual, policy, and*
11 *legal reasons for selecting the alter-*
12 *native adopted in the final rule and*
13 *why each one of the other significant*
14 *alternatives to the rule considered by*
15 *the agency which affect the privacy*
16 *interests of individuals was rejected.*

17 *“(3) AVAILABILITY TO PUBLIC.—The*
18 *agency shall make copies of the final pri-*
19 *vac impact assessment available to mem-*
20 *bers of the public and shall publish in the*
21 *Federal Register such assessment or a*
22 *summary thereof.*

23 *“(c) WAIVERS.—*

24 *“(1) EMERGENCIES.—An agency head*
25 *may waive or delay the completion of*

1 *some or all of the requirements of sub-*
2 *sections (a) and (b) to the same extent as*
3 *the agency head may, under section 608,*
4 *waive or delay the completion of some or*
5 *all of the requirements of sections 603 and*
6 *604, respectively.*

7 *“(2) NATIONAL SECURITY.—An agency*
8 *head may, for national security reasons,*
9 *or to protect from disclosure classified in-*
10 *formation, confidential commercial infor-*
11 *mation, or information the disclosure of*
12 *which may adversely affect a law enforce-*
13 *ment effort, waive or delay the completion*
14 *of some or all of the following require-*
15 *ments:*

16 *“(A) The requirement of subsection*
17 *(a)(1) to make an assessment avail-*
18 *able for public comment.*

19 *“(B) The requirement of sub-*
20 *section (a)(1) to have an assessment or*
21 *summary thereof published in the Fed-*
22 *eral Register.*

23 *“(C) The requirements of sub-*
24 *section (b)(3).*

1 “(d) *PROCEDURES FOR GATHERING COM-*
2 *MENTS.—When any rule is promulgated which*
3 *may have a significant privacy impact on indi-*
4 *viduals, or a privacy impact on a substantial*
5 *number of individuals, the head of the agency*
6 *promulgating the rule or the official of the*
7 *agency with statutory responsibility for the*
8 *promulgation of the rule shall assure that in-*
9 *dividuals have been given an opportunity to*
10 *participate in the rulemaking for the rule*
11 *through techniques such as—*

12 “(1) *the inclusion in an advance no-*
13 *tice of proposed rulemaking, if issued, of*
14 *a statement that the proposed rule may*
15 *have a significant privacy impact on indi-*
16 *viduals, or a privacy impact on a substan-*
17 *tial number of individuals;*

18 “(2) *the publication of a general no-*
19 *tice of proposed rulemaking in publica-*
20 *tions of national circulation likely to be*
21 *obtained by individuals;*

22 “(3) *the direct notification of inter-*
23 *ested individuals;*

24 “(4) *the conduct of open conferences*
25 *or public hearings concerning the rule for*

1 *individuals, including soliciting and re-*
2 *ceiving comments over computer net-*
3 *works; and*

4 *“(5) the adoption or modification of*
5 *agency procedural rules to reduce the cost*
6 *or complexity of participation in the rule-*
7 *making by individuals.*

8 *“(e) PERIODIC REVIEW OF RULES.—*

9 *“(1) IN GENERAL.—Each agency shall*
10 *carry out a periodic review of the rules*
11 *promulgated by the agency that have a*
12 *significant privacy impact on individuals,*
13 *or a privacy impact on a substantial num-*
14 *ber of individuals. Under such periodic*
15 *review, the agency shall determine, for*
16 *each such rule, whether the rule can be*
17 *amended or rescinded in a manner that*
18 *minimizes any such impact while remain-*
19 *ing in accordance with applicable stat-*
20 *utes. For each such determination, the*
21 *agency shall consider the following fac-*
22 *tors:*

23 *“(A) The continued need for the*
24 *rule.*

1 ***“(B) The nature of complaints or***
2 ***comments received from the public***
3 ***concerning the rule.***

4 ***“(C) The complexity of the rule.***

5 ***“(D) The extent to which the rule***
6 ***overlaps, duplicates, or conflicts with***
7 ***other Federal rules, and, to the extent***
8 ***feasible, with State and local govern-***
9 ***mental rules.***

10 ***“(E) The length of time since the***
11 ***rule was last reviewed under this sub-***
12 ***section.***

13 ***“(F) The degree to which tech-***
14 ***nology, economic conditions, or other***
15 ***factors have changed in the area af-***
16 ***ected by the rule since the rule was***
17 ***last reviewed under this subsection.***

18 ***“(2) PLAN REQUIRED.—Each agency***
19 ***shall carry out the periodic review re-***
20 ***quired by paragraph (1) in accordance***
21 ***with a plan published by such agency in***
22 ***the Federal Register. Each such plan***
23 ***shall provide for the review under this***
24 ***subsection of each rule promulgated by***
25 ***the agency not later than 10 years after***

1 *the date on which such rule was pub-*
2 *lished as the final rule and, thereafter,*
3 *not later than 10 years after the date on*
4 *which such rule was last reviewed under*
5 *this subsection. The agency may amend*
6 *such plan at any time by publishing the*
7 *revision in the Federal Register.*

8 **“(3) ANNUAL PUBLICATION.—***Each year,*
9 *each agency shall publish in the Federal*
10 *Register a list of the rules to be reviewed*
11 *by such agency under this subsection dur-*
12 *ing the following year. The list shall in-*
13 *clude a brief description of each such rule*
14 *and the need for and legal basis of such*
15 *rule and shall invite public comment*
16 *upon the determination to be made under*
17 *this subsection with respect to such rule.*

18 **“(f) JUDICIAL REVIEW.—**

19 **“(1) IN GENERAL.—***For any rule subject*
20 *to this section, an individual who is ad-*
21 *versely affected or aggrieved by final*
22 *agency action is entitled to judicial re-*
23 *view of agency compliance with the re-*
24 *quirements of subsections (b) and (c) in*
25 *accordance with chapter 7. Agency com-*

1 *pliance with subsection (d) shall be judi-*
2 *cially reviewable in connection with judi-*
3 *cial review of subsection (b).*

4 “(2) *JURISDICTION.*—*Each court having*
5 *jurisdiction to review such rule for com-*
6 *pliance with section 553, or under any*
7 *other provision of law, shall have juris-*
8 *diction to review any claims of noncompli-*
9 *ance with subsections (b) and (c) in ac-*
10 *cordance with chapter 7. Agency compli-*
11 *ance with subsection (d) shall be judi-*
12 *cially reviewable in connection with judi-*
13 *cial review of subsection (b).*

14 “(3) *LIMITATIONS.*—

15 “(A) *An individual may seek such*
16 *review during the period beginning on*
17 *the date of final agency action and*
18 *ending 1 year later, except that where*
19 *a provision of law requires that an ac-*
20 *tion challenging a final agency action*
21 *be commenced before the expiration of*
22 *1 year, such lesser period shall apply*
23 *to an action for judicial review under*
24 *this subsection.*

1 “(B) *In the case where an agency*
2 *delays the issuance of a final privacy*
3 *impact assessment pursuant to sub-*
4 *section (c), an action for judicial re-*
5 *view under this section shall be filed*
6 *not later than—*

7 “(i) *1 year after the date the*
8 *assessment is made available to*
9 *the public; or*

10 “(ii) *where a provision of law*
11 *requires that an action chal-*
12 *lenging a final agency regulation*
13 *be commenced before the expira-*
14 *tion of the 1-year period, the num-*
15 *ber of days specified in such provi-*
16 *sion of law that is after the date*
17 *the assessment is made available*
18 *to the public.*

19 “(4) *RELIEF.—In granting any relief in*
20 *an action under this subsection, the court*
21 *shall order the agency to take corrective*
22 *action consistent with this section and*
23 *chapter 7, including, but not limited to—*

24 “(A) *remanding the rule to the*
25 *agency; and*

1 ***“(B) deferring the enforcement of***
2 ***the rule against individuals, unless***
3 ***the court finds that continued enforce-***
4 ***ment of the rule is in the public inter-***
5 ***est.***

6 ***“(5) RULE OF CONSTRUCTION.—Nothing***
7 ***in this subsection shall be construed to***
8 ***limit the authority of any court to stay the***
9 ***effective date of any rule or provision***
10 ***thereof under any other provision of law***
11 ***or to grant any other relief in addition to***
12 ***the requirements of this subsection.***

13 ***“(6) RECORD OF AGENCY ACTION.—In an***
14 ***action for the judicial review of a rule,***
15 ***the privacy impact assessment for such***
16 ***rule, including an assessment prepared or***
17 ***corrected pursuant to paragraph (4),***
18 ***shall constitute part of the entire record***
19 ***of agency action in connection with such***
20 ***review.***

21 ***“(7) EXCLUSIVITY.—Compliance or non-***
22 ***compliance by an agency with the provi-***
23 ***sions of this section shall be subject to ju-***
24 ***dicial review only in accordance with this***
25 ***subsection.***

1 “(8) **SAVINGS CLAUSE.**—*Nothing in this*
2 *subsection bars judicial review of any*
3 *other impact statement or similar assess-*
4 *ment required by any other law if judicial*
5 *review of such statement or assessment is*
6 *otherwise permitted by law.*

7 “(g) **DEFINITION.**—*For purposes of this sec-*
8 *tion, the term ‘personally identifiable informa-*
9 *tion’ means information that can be used to*
10 *identify an individual, including such individ-*
11 *ual’s name, address, telephone number, photo-*
12 *graph, social security number or other identi-*
13 *fying information. It includes information*
14 *about such individual’s medical or financial*
15 *condition.”.*

16 **(c) PERIODIC REVIEW TRANSITION PROVI-**
17 **SIONS.—**

18 **(1) INITIAL PLAN.**—*For each agency, the*
19 *plan required by subsection (e) of section*
20 *553a of title 5, United States Code (as*
21 *added by subsection (a)), shall be pub-*
22 *lished not later than 180 days after the*
23 *date of the enactment of this Act.*

24 **(2)** *In the case of a rule promulgated*
25 *by an agency before the date of the enact-*

1 *ment of this Act, such plan shall provide*
2 *for the periodic review of such rule before*
3 *the expiration of the 10-year period begin-*
4 *ning on the date of the enactment of this*
5 *Act. For any such rule, the head of the*
6 *agency may provide for a 1-year extension*
7 *of such period if the head of the agency,*
8 *before the expiration of the period, cer-*
9 *tifies in a statement published in the Fed-*
10 *eral Register that reviewing such rule be-*
11 *fore the expiration of the period is not fea-*
12 *sible. The head of the agency may provide*
13 *for additional 1-year extensions of the pe-*
14 *riod pursuant to the preceding sentence,*
15 *but in no event may the period exceed 15*
16 *years.*

17 *(d) CONGRESSIONAL REVIEW.—Section*
18 *801(a)(1)(B) of title 5, United States Code, is*
19 *amended—*

20 *(1) by redesignating clauses (iii) and*
21 *(iv) as clauses (iv) and (v), respectively;*
22 *and*

23 *(2) by inserting after clause (ii) the*
24 *following new clause:*

1 “(iii) *the agency’s actions relevant to*
2 *section 553a;*”.

3 (e) **CLERICAL AMENDMENT.**—*The table of*
4 *sections at the beginning of chapter 5 of title*
5 *5, United States Code, is amended by adding*
6 *after the item relating to section 553 the fol-*
7 *lowing new item:*

“553a. Privacy impact assessment in rulemaking.”.

8 **SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH**
9 **LAW ENFORCEMENT OR ANTI-TERRORISM**
10 **FUNCTIONS.**

11 (a) **IN GENERAL.**—*There shall be within*
12 *each Federal agency with law enforcement or*
13 *anti-terrorism functions a chief privacy offi-*
14 *cer, who shall have primary responsibility*
15 *within that agency for privacy policy. The*
16 *agency chief privacy officer shall be des-*
17 *ignated by the head of the agency.*

18 (b) **RESPONSIBILITIES.**—*The responsibilities*
19 *of each agency chief privacy officer shall in-*
20 *clude—*

21 (1) *ensuring that the use of tech-*
22 *nologies sustains, and does not erode, pri-*
23 *vacv protections relating to the use, col-*
24 *lection, and disclosure of personally iden-*
25 *tifiable information;*

1 ***(2) ensuring that personally identi-***
2 ***fi-able information contained in systems of***
3 ***records is handled in full compliance***
4 ***with fair information practices as set out***
5 ***in section 552a of title 5, United States***
6 ***Code;***

7 ***(3) evaluating legislative and regu-***
8 ***latory proposals involving collection, use,***
9 ***and disclosure of personally identifiable***
10 ***information by the Federal Government;***

11 ***(4) conducting a privacy impact as-***
12 ***essment of proposed rules of the agency***
13 ***on the privacy of personally identifiable***
14 ***information, including the type of person-***
15 ***ally identifiable information collected***
16 ***and the number of people affected;***

17 ***(5) preparing and submitting a report***
18 ***to Congress on an annual basis on activi-***
19 ***ties of the agency that affect privacy, in-***
20 ***cluding complaints of privacy violations,***
21 ***implementation of section 552a of title 5,***
22 ***United States Code, internal controls, and***
23 ***other relevant matters;***

24 ***(6) ensuring that the agency protects***
25 ***personally identifiable information and***

1 *information systems from unauthorized*
2 *access, use, disclosure, disruption, modi-*
3 *fication, or destruction in order to pro-*
4 *vide—*

5 *(A) integrity, which means guard-*
6 *ing against improper information*
7 *modification or destruction, and in-*
8 *cludes ensuring information non-*
9 *repudiation and authenticity;*

10 *(B) confidentially, which means*
11 *preserving authorized restrictions on*
12 *access and disclosure, including*
13 *means for protecting personal privacy*
14 *and proprietary information;*

15 *(C) availability, which means en-*
16 *suring timely and reliable access to*
17 *and use of that information; and*

18 *(D) authentication, which means*
19 *utilizing digital credentials to assure*
20 *the identity of users and validate*
21 *their access; and*

22 *(7) advising the head of the agency*
23 *and the Director of the Office of Manage-*
24 *ment and Budget on information security*

1 *and privacy issues pertaining to Federal*
2 *Government information systems.*

3 **CHAPTER 2—MUTUAL AID AND**
4 **LITIGATION MANAGEMENT**

5 **SEC. 5101. SHORT TITLE.**

6 *This chapter may be cited as the “Mutual*
7 *Aid and Litigation Management Authoriza-*
8 *tion Act of 2004”.*

9 **SEC. 5102. MUTUAL AID AUTHORIZED.**

10 **(a) AUTHORIZATION TO ENTER INTO AGREE-**
11 **MENTS.—**

12 **(1) IN GENERAL.—***The authorized rep-*
13 *resentative of a State, locality, or the Fed-*
14 *eral Government may enter into an inter-*
15 *state mutual aid agreement or a mutual*
16 *aid agreement with the Federal Govern-*
17 *ment on behalf of the State, locality, or*
18 *Federal Government under which, at the*
19 *request of any party to the agreement, the*
20 *other party to the agreement may—*

21 **(A)** *provide law enforcement, fire,*
22 *rescue, emergency health and medical*
23 *services, transportation, communica-*
24 *tions, public works and engineering,*
25 *mass care, and resource support in an*

1 *emergency or public service event oc-*
2 *ccurring in the jurisdiction of the re-*
3 *questing party;*

4 *(B) provide other services to pre-*
5 *pare for, mitigate, manage, respond*
6 *to, or recover from an emergency or*
7 *public service event occurring in the*
8 *jurisdiction of the requesting party;*
9 *and*

10 *(C) participate in training events*
11 *occurring in the jurisdiction of the re-*
12 *questing party.*

13 ***(b) LIABILITY AND ACTIONS AT LAW.—***

14 ***(1) LIABILITY.—****A responding party or*
15 *its officers or employees shall be liable on*
16 *account of any act or omission occurring*
17 *while providing assistance or partici-*
18 *pating in a training event in the jurisdic-*
19 *tion of a requesting party under a mutual*
20 *aid agreement (including any act or omis-*
21 *sion arising from the maintenance or use*
22 *of any equipment, facilities, or supplies in*
23 *connection therewith), but only to the ex-*
24 *tent permitted under and in accordance*
25 *with the laws and procedures of the State*

1 *of the responding party and subject to this*
2 *chapter.*

3 **(2) JURISDICTION OF COURTS.—**

4 **(A) IN GENERAL.—***Subject to sub-*
5 *paragraph (B) and section 3, any ac-*
6 *tion brought against a responding*
7 *party or its officers or employees on*
8 *account of an act or omission de-*
9 *scribed in subsection (b)(1) may be*
10 *brought only under the laws and pro-*
11 *cedures of the State of the responding*
12 *party and only in the State courts or*
13 *United States District Courts located*
14 *therein.*

15 **(B) UNITED STATES AS PARTY.—***If*
16 *the United States is the party against*
17 *whom an action described in para-*
18 *graph (1) is brought, the action may*
19 *be brought only in a United States*
20 *District Court.*

21 **(c) WORKERS' COMPENSATION AND DEATH**
22 **BENEFITS.—**

23 **(1) PAYMENT OF BENEFITS.—***A respond-*
24 *ing party shall provide for the payment of*
25 *workers' compensation and death benefits*

1 *with respect to officers or employees of the*
2 *party who sustain injuries or are killed*
3 *while providing assistance or partici-*
4 *pating in a training event under a mu-*
5 *tual aid agreement in the same manner*
6 *and on the same terms as if the injury or*
7 *death were sustained within the jurisdic-*
8 *tion of the responding party.*

9 (2) *LIABILITY FOR BENEFITS.—No party*
10 *shall be liable under the law of any State*
11 *other than its own (or, in the case of the*
12 *Federal Government, under any law other*
13 *than Federal law) for the payment of*
14 *workers' compensation and death benefits*
15 *with respect to injured officers or employ-*
16 *ees of the party who sustain injuries or*
17 *are killed while providing assistance or*
18 *participating in a training event under a*
19 *mutual aid agreement.*

20 (d) *LICENSES AND PERMITS.—Whenever any*
21 *person holds a license, certificate, or other per-*
22 *mit issued by any responding party evidencing*
23 *the meeting of qualifications for professional,*
24 *mechanical, or other skills, such person will*
25 *be deemed licensed, certified, or permitted by*

1 *the requesting party to provide assistance in-*
2 *volving such skill under a mutual aid agree-*
3 *ment.*

4 (e) *SCOPE.—Except to the extent provided*
5 *in this section, the rights and responsibilities*
6 *of the parties to a mutual aid agreement shall*
7 *be as described in the mutual aid agreement.*

8 (f) *EFFECT ON OTHER AGREEMENTS.—Noth-*
9 *ing in this section precludes any party from*
10 *entering into supplementary mutual aid*
11 *agreements with fewer than all the parties, or*
12 *with another, or affects any other agreements*
13 *already in force among any parties to such an*
14 *agreement, including the Emergency Manage-*
15 *ment Assistance Compact (EMAC) under Pub-*
16 *lic Law 104–321.*

17 (g) *FEDERAL GOVERNMENT.—Nothing in this*
18 *section may be construed to limit any other ex-*
19 *pressed or implied authority of any entity of*
20 *the Federal Government to enter into mutual*
21 *aid agreements.*

22 (h) *CONSISTENCY WITH STATE LAW.—A party*
23 *may enter into a mutual aid agreement under*
24 *this chapter only insofar as the agreement is*
25 *in accord with State law.*

1 **SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.**

2 **(a) AUTHORIZATION TO ENTER INTO LITIGATION**
3 **MANAGEMENT AGREEMENTS.—***The author-*
4 *ized representative of a State or locality may*
5 *enter into a litigation management agreement*
6 *on behalf of the State or locality. Such litigation*
7 *management agreements may provide*
8 *that all claims against such Emergency Re-*
9 *sponse Providers arising out of, relating to, or*
10 *resulting from an act of terrorism when Emer-*
11 *gency Response Providers from more than 1*
12 *State have acted in defense against, in re-*
13 *sponse to, or recovery from such act shall be*
14 *governed by the following provisions.*

15 **(b) FEDERAL CAUSE OF ACTION.—**

16 **(1) IN GENERAL.—***There shall exist a*
17 *Federal cause of action for claims against*
18 *Emergency Response Providers arising out*
19 *of, relating to, or resulting from an act of*
20 *terrorism when Emergency Response Pro-*
21 *viders from more than 1 State have acted*
22 *in defense against, in response to, or re-*
23 *covery from such act. As determined by*
24 *the parties to a litigation management*
25 *agreement, the substantive law for deci-*
26 *sion in any such action shall be—*

1 (A) *derived from the law, includ-*
2 *ing choice of law principles, of the*
3 *State in which such acts of terrorism*
4 *occurred, unless such law is incon-*
5 *sistent with or preempted by Federal*
6 *law; or*

7 (B) *derived from the choice of law*
8 *principles agreed to by the parties to*
9 *a litigation management agreement*
10 *as described in the litigation manage-*
11 *ment agreement, unless such prin-*
12 *ciples are inconsistent with or pre-*
13 *empted by Federal law.*

14 (2) **JURISDICTION.**—*Such appropriate*
15 *district court of the United States shall*
16 *have original and exclusive jurisdiction*
17 *over all actions for any claim against*
18 *Emergency Response Providers for loss of*
19 *property, personal injury, or death aris-*
20 *ing out of, relating to, or resulting from*
21 *an act of terrorism when Emergency Re-*
22 *sponse Providers from more than 1 State*
23 *have acted in defense against, in response*
24 *to, or recovery from an act of terrorism.*

1 **(3) SPECIAL RULES.—***In an action*
2 *brought for damages that is governed by a*
3 *litigation management agreement, the fol-*
4 *lowing provisions apply:*

5 **(A) PUNITIVE DAMAGES.—***No puni-*
6 *tive damages intended to punish or*
7 *deter, exemplary damages, or other*
8 *damages not intended to compensate*
9 *a plaintiff for actual losses may be*
10 *awarded, nor shall any party be liable*
11 *for interest prior to the judgment.*

12 **(B) COLLATERAL SOURCES.—***Any re-*
13 *covery by a plaintiff in an action gov-*
14 *erned by a litigation management*
15 *agreement shall be reduced by the*
16 *amount of collateral source com-*
17 *ensation, if any, that the plaintiff*
18 *has received or is entitled to receive as*
19 *a result of such acts of terrorism.*

20 **(4) EXCLUSIONS.—***Nothing in this sec-*
21 *tion shall in any way limit the ability of*
22 *any person to seek any form of recovery*
23 *from any person, government, or other en-*
24 *tity that—*

1 ***(A) attempts to commit, knowingly***
2 ***participates in, aids and abets, or***
3 ***commits any act of terrorism, or any***
4 ***criminal act related to or resulting***
5 ***from such act of terrorism; or***

6 ***(B) participates in a conspiracy to***
7 ***commit any such act of terrorism or***
8 ***any such criminal act.***

9 ***SEC. 5104. ADDITIONAL PROVISIONS.***

10 ***(a) NO ABROGATION OF OTHER IMMUNI-***
11 ***TIES.—Nothing in this chapter shall abrogate***
12 ***any other immunities from liability that any***
13 ***party may have under any other State or Fed-***
14 ***eral law.***

15 ***(b) EXCEPTION FOR CERTAIN FEDERAL LAW***
16 ***ENFORCEMENT ACTIVITIES.—A mutual aid***
17 ***agreement or a litigation management agree-***
18 ***ment may not apply to law enforcement secu-***
19 ***rity operations at special events of national***
20 ***significance under section 3056(e) of title 18,***
21 ***United States Code, or to other law enforce-***
22 ***ment functions of the United States Secret***
23 ***Service.***

1 (c) **SECRET SERVICE.**—*Section 3056 of title*
2 *18, United States Code, is amended by adding*
3 *at the end the following new subsection:*

4 “(g) *The Secret Service shall be main-*
5 *tained as a distinct entity within the Depart-*
6 *ment of Homeland Security and shall not be*
7 *merged with any other department function.*
8 *All personnel and operational elements of the*
9 *United States Secret Service shall report to the*
10 *Director of the Secret Service, who shall report*
11 *directly to the Secretary of Homeland Security*
12 *without being required to report through any*
13 *other official of the Department.”.*

14 **SEC. 5105. DEFINITIONS.**

15 *For purposes of this chapter, the following*
16 *definitions apply:*

17 (1) **AUTHORIZED REPRESENTATIVE.**—*The*
18 *term “authorized representative” means—*

19 (A) *in the case of the Federal Gov-*
20 *ernment, any individual designated by*
21 *the President with respect to the exec-*
22 *utive branch, the Chief Justice of the*
23 *United States with respect to the judi-*
24 *cial branch, or the President pro Tem-*
25 *pore of the Senate and Speaker of the*

1 *House of Representatives with respect*
2 *to the Congress, or their designees, to*
3 *enter into a mutual aid agreement;*

4 *(B) in the case of a locality, the of-*
5 *ficial designated by law to declare an*
6 *emergency in and for the locality, or*
7 *the official's designee;*

8 *(C) in the case of a State, the Gov-*
9 *ernor or the Governor's designee.*

10 *(2) EMERGENCY.—The term “emer-*
11 *gency” means a major disaster or emer-*
12 *gency declared by the President, or a*
13 *State of Emergency declared by an au-*
14 *thorized representative of a State or local-*
15 *ity, in response to which assistance may*
16 *be provided under a mutual aid agree-*
17 *ment.*

18 *(3) EMERGENCY RESPONSE PROVIDER.—*
19 *The term “Emergency Response Provider”*
20 *means State or local emergency public*
21 *safety, law enforcement, emergency re-*
22 *sponse, emergency medical (including hos-*
23 *pital emergency facilities), and related*
24 *personnel, agencies, and authorities that*

1 *are a party to a litigation management*
2 *agreement.*

3 (4) *EMPLOYEE.—The term “employee”*
4 *means, with respect to a party to a mutual*
5 *aid agreement, the employees of the party,*
6 *including its agents or authorized volun-*
7 *teers, who are committed to provide assist-*
8 *ance under the agreement.*

9 (5) *LITIGATION MANAGEMENT AGREE-*
10 *MENT.—The term “litigation management*
11 *agreement” means an agreement entered*
12 *into pursuant to the authority granted*
13 *under section 5103.*

14 (6) *LOCALITY.—The term “locality”*
15 *means a county, city, or town.*

16 (7) *MUTUAL AID AGREEMENT.—The term*
17 *“mutual aid agreement” means an agree-*
18 *ment entered into pursuant to the author-*
19 *ity granted under section 5102.*

20 (8) *PUBLIC SERVICE EVENT.—The term*
21 *“public service event” means any*
22 *undeclared emergency, incident, or situa-*
23 *tion in preparation for or response to*
24 *which assistance may be provided under a*
25 *mutual aid agreement.*

1 **(9) REQUESTING PARTY.**—*The term “re-*
2 *questing party” means, with respect to a*
3 *mutual aid agreement, the party in whose*
4 *jurisdiction assistance is provided, or a*
5 *training event is held, under the agree-*
6 *ment.*

7 **(10) RESPONDING PARTY.**—*The term “re-*
8 *sponding party” means, with respect to a*
9 *mutual aid agreement, the party pro-*
10 *viding assistance, or participating in a*
11 *training event, under the agreement, but*
12 *does not include the requesting party.*

13 **(11) STATE.**—*The term “State” includes*
14 *each of the several States of the United*
15 *States, the District of Columbia, the Com-*
16 *monwealth of Puerto Rico, the Virgin Is-*
17 *lands, Guam, American Samoa, and the*
18 *Commonwealth of the Northern Mariana*
19 *Islands, and any other territory or posses-*
20 *sion of the United States, and any polit-*
21 *ical subdivision of any such place.*

22 **(12) TRAINING EVENT.**—*The term*
23 *“training event” means an emergency and*
24 *public service event-related exercise, test,*
25 *or other activity using equipment and per-*

8 **SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMUNICA-**
9 **TIONS INTEROPERABILITY.**

(1) *PROGRAM.—The Secretary of Homeland Security, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall establish a program to enhance public safety interoperable communications at all levels of government. Such program shall—*

23 ***(B) coordinate with other Federal***
24 ***agencies in carrying out subpara-***
25 ***graph (A);***

1 (C) *develop, in consultation with*
2 *other appropriate Federal agencies*
3 *and State and local authorities, ap-*
4 *propriate minimum capabilities for*
5 *communications interoperability for*
6 *Federal, State, and local public safety*
7 *agencies;*

8 (D) *accelerate, in consultation*
9 *with other Federal agencies, includ-*
10 *ing the National Institute of Stand-*
11 *ards and Technology, the private sec-*
12 *tor, and nationally recognized stand-*
13 *ards organizations as appropriate,*
14 *the development of national voluntary*
15 *consensus standards for public safety*
16 *interoperable communications;*

17 (E) *encourage the development*
18 *and implementation of flexible and*
19 *open architectures, with appropriate*
20 *levels of security, for short-term and*
21 *long-term solutions to public safety*
22 *communications interoperability;*

23 (F) *assist other Federal agencies*
24 *in identifying priorities for research,*
25 *development, and testing and evalua-*

1 *tion with regard to public safety inter-*
2 *operable communications;*

3 *(G) identify priorities within the*
4 *Department of Homeland Security for*
5 *research, development, and testing*
6 *and evaluation with regard to public*
7 *safety interoperable communications;*

8 *(H) establish coordinated guid-*
9 *ance for Federal grant programs for*
10 *public safety interoperable commu-*
11 *nications;*

12 *(I) provide technical assistance to*
13 *State and local public safety agencies*
14 *regarding planning, acquisition strat-*
15 *egies, interoperability architectures,*
16 *training, and other functions nec-*
17 *essary to achieve public safety commu-*
18 *nications interoperability;*

19 *(J) develop and disseminate best*
20 *practices to improve public safety*
21 *communications interoperability; and*

22 *(K) develop appropriate perform-*
23 *ance measures and milestones to sys-*
24 *tematically measure the Nation's*
25 *progress towards achieving public*

1 *safety communications interoper-*
2 *ability, including the development of*
3 *national voluntary consensus stand-*
4 *ards.*

5 **(2) OFFICE FOR INTEROPERABILITY AND**
6 **COMPATIBILITY.—**

7 **(A) ESTABLISHMENT OF OFFICE.—**
8 *The Secretary may establish an Office*
9 *for Interoperability and Compatibility*
10 *to carry out this subsection.*

11 **(B) FUNCTIONS.—***If the Secretary*
12 *establishes such office, the Secretary*
13 *shall, through such office—*

14 *(i) carry out Department of*
15 *Homeland Security responsibil-*
16 *ities and authorities relating to*
17 *the SAFECOM Program; and*

18 *(ii) carry out subsection (c)*
19 *(relating to rapid interoperable*
20 *communications capabilities for*
21 *high risk jurisdictions).*

22 **(3) APPLICABILITY OF FEDERAL ADVISORY**
23 **COMMITTEE ACT.—***The Federal Advisory*
24 *Committee Act (5 U.S.C. App.) shall not*
25 *apply to advisory groups established and*

1 *maintained by the Secretary for purposes*
2 *of carrying out this subsection.*

3 ***(b) REPORT.***—*Not later than 120 days after*
4 *the date of the enactment of this Act, the Sec-*
5 *retary shall report to the Congress on Depart-*
6 *ment of Homeland Security plans for accel-*
7 *erating the development of national voluntary*
8 *consensus standards for public safety inter-*
9 *operable communications, a schedule of mile-*
10 *stones for such development, and achieve-*
11 *ments of such development.*

12 ***(c) RAPID INTEROPERABLE COMMUNICATIONS***
13 ***CAPABILITIES FOR HIGH RISK JURISDICTIONS.***—
14 *The Secretary, in consultation with other rel-*
15 *evant Federal, State, and local government*
16 *agencies, shall provide technical, training,*
17 *and other assistance as appropriate to support*
18 *the rapid establishment of consistent, secure,*
19 *and effective interoperable communications*
20 *capabilities for emergency response providers*
21 *in jurisdictions determined by the Secretary to*
22 *be at consistently high levels of risk of terrorist*
23 *attack.*

24 ***(d) DEFINITIONS.***—*In this section:*

1 **(1) INTEROPERABLE COMMUNICATIONS.—**

2 *The term “interoperable communications”*
3 *means the ability of emergency response*
4 *providers and relevant Federal, State,*
5 *and local government agencies to commu-*
6 *nicate with each other as necessary,*
7 *through a dedicated public safety network*
8 *utilizing information technology systems*
9 *and radio communications systems, and*
10 *to exchange voice, data, or video with one*
11 *another on demand, in real time, as nec-*
12 *essary.*

13 **(2) EMERGENCY RESPONSE PROVIDERS.—**

14 *The term “emergency response providers”*
15 *has the meaning that term has under sec-*
16 *tion 2 of the Homeland Security Act of*
17 *2002 (6 U.S.C. 101)*

18 **(e) CLARIFICATION OF RESPONSIBILITY FOR**
19 **INTEROPERABLE COMMUNICATIONS.—**

20 **(1) UNDER SECRETARY FOR EMERGENCY**
21 **PREPAREDNESS AND RESPONSE.—Section**
22 **502(7) of the Homeland Security Act of**
23 **2002 (6 U.S.C. 312(7)) is amended—**

24 **(A) by striking “developing com-**
25 **prehensive programs for developing**

1 *interoperative communications tech-*
 2 *nology, and”; and*

3 *(B) by striking “such” and insert-*
 4 *ing “interoperable communications”.*

5 *(2) OFFICE FOR DOMESTIC PREPARED-*
 6 *NESS.—Section 430(c) of such Act (6 U.S.C.*
 7 *238(c)) is amended—*

8 *(A) in paragraph (7) by striking*
 9 *“and” after the semicolon;*

10 *(B) in paragraph (8) by striking*
 11 *the period and inserting “; and”; and*

12 *(C) by adding at the end the fol-*
 13 *lowing:*

14 *“(9) helping to ensure the acquisition*
 15 *of interoperable communication tech-*
 16 *nology by State and local governments*
 17 *and emergency response providers.”.*

18 *SEC. 5132. SENSE OF CONGRESS REGARDING THE INCIDENT*
 19 *COMMAND SYSTEM.*

20 *(a) FINDINGS.—The Congress finds that—*

21 *(1) in Homeland Security Presidential*
 22 *Directive–5, the President directed the*
 23 *Secretary of Homeland Security to develop*
 24 *an incident command system to be known*
 25 *as the National Incident Management*

1 *System (NIMS), and directed all Federal*
2 *agencies to make the adoption of NIMS a*
3 *condition for the receipt of Federal emer-*
4 *gency preparedness assistance by States,*
5 *territories, tribes, and local governments*
6 *beginning in fiscal year 2005;*

7 *(2) in March 2004, the Secretary of*
8 *Homeland Security established NIMS,*
9 *which provides a unified structural*
10 *framework for Federal, State, territorial,*
11 *tribal, and local governments to ensure*
12 *coordination of command, operations,*
13 *planning, logistics, finance, and adminis-*
14 *tration during emergencies involving mul-*
15 *tiple jurisdictions or agencies; and*

16 *(3) the National Commission on Ter-*
17 *rorist Attacks Upon the United States*
18 *strongly supports the adoption of NIMS by*
19 *emergency response agencies nationwide,*
20 *and the decision by the President to con-*
21 *dition Federal emergency preparedness*
22 *assistance upon the adoption of NIMS.*

23 *(b) SENSE OF CONGRESS.—It is the sense of*
24 *the Congress that all levels of government*
25 *should adopt NIMS, and that the regular use*

1 *of and training in NIMS by States, territories,*
 2 *tribes, and local governments should be a con-*
 3 *dition for receiving Federal preparedness as-*
 4 *sistance.*

5 SEC. 5133. SENSE OF CONGRESS REGARDING UNITED
 6 STATES NORTHERN COMMAND PLANS AND
 7 STRATEGIES.

8 *It is the sense of Congress that the Sec-*
 9 *retary of Defense should regularly assess the*
 10 *adequacy of United States Northern Com-*
 11 *mand's plans and strategies with a view to en-*
 12 *suring that the United States Northern Com-*
 13 *mand is prepared to respond effectively to all*
 14 *military and paramilitary threats within the*
 15 *United States.*

16 [SECTION 1. SHORT TITLE.

17 [This Act may be cited as the “9/11 Rec-
 18 ommendations Implementation Act”.

19 [SEC. 2. TABLE OF CONTENTS.

20 [The table of contents for this Act is as fol-
 21 lows:

[TITLE I—REFORM OF THE INTELLIGENCE COMMUNITY

[Sec. 1001. Short title.

[Subtitle A—Establishment of National Intelligence Director

[Sec. 1011. Reorganization and improvement of management
 of intelligence community.

[Sec. 1012. Revised definition of national intelligence.

- [Sec. 1013. Joint procedures for operational coordination between Department of Defense and Central Intelligence Agency.**
- [Sec. 1014. Role of National Intelligence Director in appointment of certain officials responsible for intelligence-related activities.**
- [Sec. 1015. Initial appointment of the National Intelligence Director.**
- [Sec. 1016. Executive schedule matters.**

[Subtitle B—National counterterrorism Center and Civil Liberties Protections

- [Sec. 1021. National counterterrorism Center.**
- [Sec. 1022. Civil Liberties Protection Officer.**

[Subtitle C—Joint Intelligence Community Council

- [Sec. 1031. Joint Intelligence Community Council.**

[Subtitle D—Improvement of Human Intelligence (HUMINT)

- [Sec. 1041. Human intelligence as an increasingly critical component of the intelligence community.**
- [Sec. 1042. Improvement of human intelligence capacity.**

[Subtitle E—Improvement of Education for the Intelligence Community

- [Sec. 1051. Modification of obligated service requirements under National Security Education Program.**
- [Sec. 1052. Improvements to the National Flagship Language Initiative.**
- [Sec. 1053. Establishment of scholarship program for English language studies for heritage community citizens of the United States within the National Security Education Program.**
- [Sec. 1054. Sense of Congress with respect to language and education for the intelligence community; reports.**
- [Sec. 1055. Advancement of foreign languages critical to the intelligence community.**
- [Sec. 1056. Pilot project for Civilian Linguist Reserve Corps.**
- [Sec. 1057. Codification of establishment of the National Virtual Translation Center.**
- [Sec. 1058. Report on recruitment and retention of qualified instructors of the Defense Language Institute.**

[Subtitle F—Additional Improvements of Intelligence Activities

- [Sec. 1061. Permanent extension of Central Intelligence Agency Voluntary Separation Incentive Program.**
- [Sec. 1062. National Security Agency Emerging Technologies Panel.**

[Subtitle G—Conforming and Other Amendments

- [Sec. 1071. Conforming amendments relating to roles of National Intelligence Director and Director of the Central Intelligence Agency.**
- [Sec. 1072. Other conforming amendments.**
- [Sec. 1073. Elements of intelligence community under National Security Act of 1947.**
- [Sec. 1074. Redesignation of National Foreign Intelligence Program as National Intelligence Program.**
- [Sec. 1075. Repeal of superseded authorities.**
- [Sec. 1076. Clerical amendments to National Security Act of 1947.**
- [Sec. 1077. Conforming amendments relating to prohibiting dual service of the Director of the Central Intelligence Agency.**
- [Sec. 1078. Access to Inspector General protections.**
- [Sec. 1079. General references.**
- [Sec. 1080. Application of other laws.**

[Subtitle H—Transfer, Termination, Transition and Other Provisions

- [Sec. 1091. Transfer of community management staff.**
- [Sec. 1092. Transfer of terrorist threat integration center.**
- [Sec. 1093. Termination of positions of Assistant Directors of Central Intelligence.**
- [Sec. 1094. Implementation plan.**
- [Sec. 1095. Transitional authorities.**
- [Sec. 1096. Effective dates.**

[TITLE II—TERRORISM PREVENTION AND PROSECUTION

[Subtitle A—Individual Terrorists as Agents of Foreign Powers

- [Sec. 2001. Presumption that certain non-United States persons engaging in international terrorism are agents of foreign powers for purposes of the Foreign Intelligence Surveillance Act of 1978.**

[Subtitle B—Stop Terrorist and Military Hoaxes Act of 2004

- [Sec. 2021. Short title.**
- [Sec. 2022. Hoaxes and recovery costs.**
- [Sec. 2023. Obstruction of justice and false statements in terrorism cases.**
- [Sec. 2024. Clarification of definition.**

[Subtitle C—Material Support to Terrorism Prohibition Enhancement Act of 2004

- [Sec. 2041. Short title.**
- [Sec. 2042. Receiving military-type training from a foreign terrorist organization.**
- [Sec. 2043. Providing material support to terrorism.**
- [Sec. 2044. Financing of terrorism.**

**[Subtitle D—Weapons of Mass Destruction Prohibition
Improvement Act of 2004**

- [Sec. 2051. Short title.**
- [Sec. 2052. Weapons of mass destruction.**
- [Sec. 2053. Participation in nuclear and weapons of mass destruction threats to the United States.**
- [Sec. 2054. Proliferation of weapons of mass destruction.**
- [Sec. 2055. Sense of Congress regarding international counterproliferation efforts.**
- [Sec. 2056. Removal of potential nuclear weapons materials from vulnerable sites worldwide.**

[Subtitle E—Money Laundering and Terrorist Financing

**[CHAPTER 1—FUNDING TO COMBAT FINANCIAL CRIMES INCLUDING
TERRORIST FINANCING**

- [Sec. 2101. Additional authorization for FinCEN.**
- [Sec. 2102. Money laundering and financial crimes strategy reauthorization.**

**[CHAPTER 2—ENFORCEMENT TOOLS TO COMBAT FINANCIAL
CRIMES INCLUDING TERRORIST FINANCING**

**[SUBCHAPTER A—MONEY LAUNDERING ABATEMENT AND FINANCIAL
ANTITERRORISM TECHNICAL CORRECTIONS**

- [Sec. 2111. Short title.**
- [Sec. 2112. Technical corrections to Public Law 107–56.**
- [Sec. 2113. Technical corrections to other provisions of law.**
- [Sec. 2114. Repeal of review.**
- [Sec. 2115. Effective date.**

[SUBCHAPTER B—ADDITIONAL ENFORCEMENT TOOLS

- [Sec. 2121. Bureau of Engraving and Printing security printing.**
- [Sec. 2122. Conduct in aid of counterfeiting.**

[Subtitle F—Criminal History Background Checks

- [Sec. 2141. Short title.**
- [Sec. 2142. Criminal history background checks.**
- [Sec. 2143. Protect Act.**
- [Sec. 2144. Reviews of criminal records of applicants for private security officer employment.**
- [Sec. 2145. Task force on clearinghouse for IAFIS criminal history records.**

**[Subtitle G—Protection of United States Aviation System from
Terrorist Attacks**

- [Sec. 2171. Provision for the use of biometric or other technology.**
- [Sec. 2172. Transportation security strategic planning.**
- [Sec. 2173. Next generation airline passenger prescreening.**

- [Sec. 2174. Deployment and use of explosive detection equipment at airport screening checkpoints.**
- [Sec. 2175. Pilot program to evaluate use of blast-resistant cargo and baggage containers.**
- [Sec. 2176. Air cargo screening technology.**
- [Sec. 2177. Airport checkpoint screening explosive detection.**
- [Sec. 2178. Next generation security checkpoint.**
- [Sec. 2179. Penalty for failure to secure cockpit door.**
- [Sec. 2180. Federal air marshal anonymity.**
- [Sec. 2181. Federal law enforcement counterterrorism training.**
- [Sec. 2182. Federal flight deck officer weapon carriage pilot program.**
- [Sec. 2183. Registered traveler program.**
- [Sec. 2184. Wireless communication.**
- [Sec. 2185. Secondary flight deck barriers.**
- [Sec. 2186. Extension.**
- [Sec. 2187. Perimeter Security.**
- [Sec. 2188. Extremely hazardous materials transportation security.**
- [Sec. 2189. Definitions.**

[Subtitle H—Other Matters

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- [Sec. 5102. Mutual aid authorized.**
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1 **[TITLE I—REFORM OF THE**
2 **INTELLIGENCE COMMUNITY**

3 **[SEC. 1001. SHORT TITLE.**

4 **[This title may be cited as the “National**
5 **Security Intelligence Improvement Act of**
6 **2004”.**

7 **[Subtitle A—Establishment of**
8 **National Intelligence Director**

9 **[SEC. 1011. REORGANIZATION AND IMPROVEMENT OF MAN-**
10 **AGEMENT OF INTELLIGENCE COMMUNITY.**

11 **[(a) IN GENERAL.—Title I of the National**
12 **Security Act of 1947 (50 U.S.C. 402 et seq.) is**
13 **amended by striking sections 102 through 104**
14 **and inserting the following new sections:**

15 **[“NATIONAL INTELLIGENCE DIRECTOR**

16 **[“SEC. 102. (a) NATIONAL INTELLIGENCE DI-**
17 **RECTOR.—(1) There is a National Intelligence**
18 **Director who shall be appointed by the Presi-**
19 **dent, by and with the advice and consent of**
20 **the Senate.**

21 **[“(2) The National Intelligence Director**
22 **shall not be located within the Executive Of-**
23 **fice of the President.**

24 **[“(b) PRINCIPAL RESPONSIBILITY.—Subject**
25 **to the authority, direction, and control of the**

1 **President, the National Intelligence Director**
2 **shall—**

3 **[“(1) serve as head of the intelligence**
4 **community;**

5 **[“(2) act as the principal adviser to**
6 **the President, to the National Security**
7 **Council, and the Homeland Security**
8 **Council for intelligence matters related**
9 **to the national security; and**

10 **[“(3) through the heads of the depart-**
11 **ments containing elements of the intel-**
12 **ligence community, and the Central Intel-**
13 **ligence Agency, manage and oversee the**
14 **execution of the National Intelligence**
15 **Program and direct the National Intel-**
16 **ligence Program.**

17 **[“(c) PROHIBITION ON DUAL SERVICE.—The**
18 **individual serving in the position of National**
19 **Intelligence Director shall not, while so serv-**
20 **ing, also serve as the Director of the Central**
21 **Intelligence Agency or as the head of any**
22 **other element of the intelligence community.**

23 **[“RESPONSIBILITIES AND AUTHORITIES OF THE**
24 **NATIONAL INTELLIGENCE DIRECTOR**

25 **[“SEC. 102A. (a) PROVISION OF INTEL-**
26 **LIGENCE.—(1) Under the direction of the Presi-**

1 dent, the National Intelligence Director shall
2 be responsible for ensuring that national in-
3 telligence is provided—

4 **[(A) to the President;**

5 **[(B) to the heads of departments and**
6 **agencies of the executive branch;**

7 **[(C) to the Chairman of the Joint**
8 **Chiefs of Staff and senior military com-**
9 **manders;**

10 **[(D) where appropriate, to the Sen-**
11 **ate and House of Representatives and the**
12 **committees thereof; and**

13 **[(E) to such other persons as the Na-**
14 **tional Intelligence Director determines to**
15 **be appropriate.**

16 **[(2) Such national intelligence should be**
17 **timely, objective, independent of political**
18 **considerations, and based upon all sources**
19 **available to the intelligence community and**
20 **other appropriate entities.**

21 **[(b) ACCESS TO INTELLIGENCE.—To the ex-**
22 **tent approved by the President, the National**
23 **Intelligence Director shall have access to all**
24 **national intelligence and intelligence related**
25 **to the national security which is collected by**

1 any Federal department, agency, or other en-
2 tity, except as otherwise provided by law or,
3 as appropriate, under guidelines agreed upon
4 by the Attorney General and the National In-
5 telligence Director.

6 **[(c) BUDGET AUTHORITIES.—(1)(A) The Na-**
7 **tional Intelligence Director shall develop and**
8 **present to the President on an annual basis**
9 **a budget for intelligence and intelligence-re-**
10 **lated activities of the United States.**

11 **[(B) In carrying out subparagraph (A) for**
12 **any fiscal year for the components of the**
13 **budget that comprise the National Intel-**
14 **ligence Program, the National Intelligence Di-**
15 **rector shall provide guidance to the heads of**
16 **departments containing elements of the intel-**
17 **ligence community, and to the heads of the**
18 **elements of the intelligence community, for**
19 **development of budget inputs to the National**
20 **Intelligence Director.**

21 **[(2)(A) The National Intelligence Direc-**
22 **tor shall participate in the development by**
23 **the Secretary of Defense of the annual budg-**
24 **ets for the Joint Military Intelligence Pro-**

1 **gram and for Tactical Intelligence and Re-**
2 **lated Activities.**

3 **[(“B) The National Intelligence Director**
4 **shall provide guidance for the development of**
5 **the annual budget for each element of the in-**
6 **telligence community that is not within the**
7 **National Intelligence Program.**

8 **[(“3) In carrying out paragraphs (1) and**
9 **(2), the National Intelligence Director may, as**
10 **appropriate, obtain the advice of the Joint In-**
11 **telligence Community Council.**

12 **[(“4) The National Intelligence Director**
13 **shall ensure the effective execution of the an-**
14 **nual budget for intelligence and intelligence-**
15 **related activities.**

16 **[(“5)(A) The National Intelligence Direc-**
17 **tor shall facilitate the management and exe-**
18 **cution of funds appropriated for the National**
19 **Intelligence Program.**

20 **[(“B) Notwithstanding any other provi-**
21 **sion of law, in receiving funds pursuant to rel-**
22 **evant appropriations Acts for the National In-**
23 **telligence Program, the Office of Management**
24 **and Budget shall apportion funds appro-**
25 **priated for the National Intelligence Program**

1 to the National Intelligence Director for allo-
2 cation to the elements of the intelligence com-
3 munity through the host executive depart-
4 ments that manage programs and activities
5 that are part of the National Intelligence Pro-
6 gram.

7 **[(C) The National Intelligence Director**
8 **shall monitor the implementation and execu-**
9 **tion of the National Intelligence Program by**
10 **the heads of the elements of the intelligence**
11 **community that manage programs and activi-**
12 **ties that are part of the National Intelligence**
13 **Program, which may include audits and eval-**
14 **uations, as necessary and feasible.**

15 **[(6) Apportionment and allotment of**
16 **funds under this subsection shall be subject**
17 **to chapter 13 and section 1517 of title 31,**
18 **United States Code, and the Congressional**
19 **Budget and Impoundment Control Act of 1974**
20 **(2 U.S.C. 621 et seq.).**

21 **[(7)(A) The National Intelligence Direc-**
22 **tor shall provide a quarterly report, begin-**
23 **ning April 1, 2005, and ending April 1, 2007,**
24 **to the President and the Congress regarding**
25 **implementation of this section.**

1 **[(B) The National Intelligence Director**
2 **shall report to the President and the Congress**
3 **not later than 5 days after learning of any in-**
4 **stance in which a departmental comptroller**
5 **acts in a manner inconsistent with the law**
6 **(including permanent statutes, authorization**
7 **Acts, and appropriations Acts), or the direc-**
8 **tion of the National Intelligence Director, in**
9 **carrying out the National Intelligence Pro-**
10 **gram.**

11 **[(d) ROLE OF NATIONAL INTELLIGENCE DI-**
12 **RECTOR IN REPROGRAMMING.—(1) No funds**
13 **made available under the National Intel-**
14 **ligence Program may be transferred or repro-**
15 **grammed without the prior approval of the**
16 **National Intelligence Director, except in ac-**
17 **cordance with procedures prescribed by the**
18 **National Intelligence Director.**

19 **[(2) The Secretary of Defense shall con-**
20 **sult with the National Intelligence Director**
21 **before transferring or reprogramming funds**
22 **made available under the Joint Military Intel-**
23 **ligence Program.**

24 **[(e) TRANSFER OF FUNDS OR PERSONNEL**
25 **WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1)**

1 In addition to any other authorities available
2 under law for such purposes, the National In-
3 telligence Director, with the approval of the
4 Director of the Office of Management and
5 Budget—

6 [“(A) may transfer funds appro-
7 priated for a program within the Na-
8 tional Intelligence Program to another
9 such program; and

10 [“(B) in accordance with procedures
11 to be developed by the National Intel-
12 ligence Director and the heads of the de-
13 partments and agencies concerned, may
14 transfer personnel authorized for an ele-
15 ment of the intelligence community to an-
16 other such element for periods up to one
17 year.

18 [“(2) The amounts available for transfer
19 in the National Intelligence Program in any
20 given fiscal year, and the terms and condi-
21 tions governing such transfers, are subject to
22 the provisions of annual appropriations Acts
23 and this subsection.

24 [“(3)(A) A transfer of funds or personnel
25 may be made under this subsection only if—

1 **[(i) the funds or personnel are being**
2 **transferred to an activity that is a higher**
3 **priority intelligence activity;**

4 **[(ii) the need for funds or personnel**
5 **for such activity is based on unforeseen**
6 **requirements;**

7 **[(iii) the transfer does not involve a**
8 **transfer of funds to the Reserve for Con-**
9 **tingencies of the Central Intelligence**
10 **Agency;**

11 **[(iv) in the case of a transfer of**
12 **funds, the transfer results in a cumu-**
13 **lative transfer of funds out of any depart-**
14 **ment or agency, as appropriate, funded**
15 **in the National Intelligence Program in a**
16 **single fiscal year—**

17 **[(I) that is less than \$100,000,000,**
18 **and**

19 **[(II) that is less than 5 percent of**
20 **amounts available to a department or**
21 **agency under the National Intel-**
22 **ligence Program; and**

23 **[(v) the transfer does not terminate**
24 **a program.**

1 **[(B) A transfer may be made without re-**
2 **gard to a limitation set forth in clause (iv) or**
3 **(v) of subparagraph (A) if the transfer has the**
4 **concurrence of the head of the department or**
5 **agency involved. The authority to provide**
6 **such concurrence may only be delegated by**
7 **the head of the department or agency in-**
8 **volved to the deputy of such officer.**

9 **[(4) Funds transferred under this sub-**
10 **section shall remain available for the same**
11 **period as the appropriations account to**
12 **which transferred.**

13 **[(5) Any transfer of funds under this sub-**
14 **section shall be carried out in accordance**
15 **with existing procedures applicable to re-**
16 **programming notifications for the appro-**
17 **priate congressional committees. Any pro-**
18 **posed transfer for which notice is given to the**
19 **appropriate congressional committees shall**
20 **be accompanied by a report explaining the**
21 **nature of the proposed transfer and how it**
22 **satisfies the requirements of this subsection.**
23 **In addition, the congressional intelligence**
24 **committees shall be promptly notified of any**
25 **transfer of funds made pursuant to this sub-**

1 section in any case in which the transfer
2 would not have otherwise required re-
3 programming notification under procedures
4 in effect as of the date of the enactment of this
5 subsection.

6 **[(6)(A) The National Intelligence Direc-**
7 **tor shall promptly submit to—**

8 **[(i) the congressional intelligence**
9 **committees,**

10 **[(ii) in the case of the transfer of**
11 **personnel to or from the Department of**
12 **Defense, the Committee on Armed Serv-**
13 **ices of the Senate and the Committee on**
14 **Armed Services of the House of Rep-**
15 **resentatives, and**

16 **[(iii) in the case of the transfer of**
17 **personnel to or from the Department of**
18 **Justice, to the Committees on the Judici-**
19 **ary of the Senate and the House of Rep-**
20 **resentatives,**

21 **a report on any transfer of personnel made**
22 **pursuant to this subsection.**

23 **[(B) The Director shall include in any**
24 **such report an explanation of the nature of**

1 the transfer and how it satisfies the require-
2 ments of this subsection.

3 **[(“f) TASKING AND OTHER AUTHORITIES.—**

4 **(1)(A) The National Intelligence Director**
5 **shall—**

6 **[(“i) develop collection objectives,**
7 **priorities, and guidance for the intel-**
8 **ligence community to ensure timely and**
9 **effective collection, processing, analysis,**
10 **and dissemination (including access by**
11 **users to collected data consistent with**
12 **applicable law and, as appropriate, the**
13 **guidelines referred to in subsection (b)**
14 **and analytic products generated by or**
15 **within the intelligence community) of na-**
16 **tional intelligence;**

17 **[(“ii) determine and establish re-**
18 **quirements and priorities for, and man-**
19 **age and direct the tasking of, collection,**
20 **analysis, production, and dissemination**
21 **of national intelligence by elements of**
22 **the intelligence community, including—**

23 **[(“I) approving requirements for**
24 **collection and analysis, and**

1 **[“(II) resolving conflicts in collec-**
2 **tion requirements and in the tasking**
3 **of national collection assets of the**
4 **elements of the intelligence commu-**
5 **nity; and**

6 **[“(iii) provide advisory tasking to in-**
7 **telligence elements of those agencies and**
8 **departments not within the National In-**
9 **telligence Program.**

10 **[“(B) The authority of the National Intel-**
11 **ligence Director under subparagraph (A) shall**
12 **not apply—**

13 **[“(i) insofar as the President so di-**
14 **rects;**

15 **[“(ii) with respect to clause (ii) of**
16 **subparagraph (A), insofar as the Sec-**
17 **retary of Defense exercises tasking au-**
18 **thority under plans or arrangements**
19 **agreed upon by the Secretary of Defense**
20 **and the National Intelligence Director; or**

21 **[“(iii) to the direct dissemination of**
22 **information to State government and**
23 **local government officials and private**
24 **sector entities pursuant to sections 201**

1 **and 892 of the Homeland Security Act of**
2 **2002 (6 U.S.C. 121, 482).**

3 **[(“2) The National Intelligence Director**
4 **shall oversee the National counterterrorism**
5 **Center and may establish such other national**
6 **intelligence centers as the Director deter-**
7 **mines necessary.**

8 **[(“3)(A) The National Intelligence Direc-**
9 **tor shall prescribe community-wide personnel**
10 **policies that—**

11 **[(“i) facilitate assignments across**
12 **community elements and to the intel-**
13 **ligence centers;**

14 **[(“ii) establish overarching standards**
15 **for intelligence education and training;**
16 **and**

17 **[(“iii) promote the most effective**
18 **analysis and collection of intelligence by**
19 **ensuring a diverse workforce, including**
20 **the recruitment and training of women,**
21 **minorities, and individuals with diverse,**
22 **ethnic, and linguistic backgrounds.**

23 **[(“B) In developing the policies pre-**
24 **scribed under subparagraph (A), the National**
25 **Intelligence Director shall consult with the**

1 heads of the departments containing the ele-
2 ments of the intelligence community.

3 **[(“C) Policies prescribed under subpara-**
4 **graph (A) shall not be inconsistent with the**
5 **personnel policies otherwise applicable to**
6 **members of the uniformed services.**

7 **[(“4) The National Intelligence Director**
8 **shall ensure compliance with the Constitution**
9 **and laws of the United States by the Central**
10 **Intelligence Agency and shall ensure such**
11 **compliance by other elements of the intel-**
12 **ligence community through the host execu-**
13 **tive departments that manage the programs**
14 **and activities that are part of the National In-**
15 **telligence Program.**

16 **[(“5) The National Intelligence Director**
17 **shall ensure the elimination of waste and un-**
18 **necessary duplication within the intelligence**
19 **community.**

20 **[(“6) The National Intelligence Director**
21 **shall perform such other functions as the**
22 **President may direct.**

23 **Nothing in this Act shall be construed as af-**
24 **fecting the role of the Department of Justice**
25 **or the Attorney General with respect to appli-**

1 cations under the Foreign Intelligence Sur-
2 veillance Act of 1978.

3 **[(g) INTELLIGENCE INFORMATION SHAR-**
4 **ING.—(1) The National Intelligence Director**
5 **shall have principal authority to ensure max-**
6 **imum availability of and access to intelligence**
7 **information within the intelligence commu-**
8 **nity consistent with national security require-**
9 **ments. The National Intelligence Director**
10 **shall—**

11 **[(A) establish uniform security**
12 **standards and procedures;**

13 **[(B) establish common information**
14 **technology standards, protocols, and**
15 **interfaces;**

16 **[(C) ensure development of informa-**
17 **tion technology systems that include**
18 **multi-level security and intelligence inte-**
19 **gration capabilities; and**

20 **[(D) establish policies and proce-**
21 **dures to resolve conflicts between the**
22 **need to share intelligence information**
23 **and the need to protect intelligence**
24 **sources and methods.**

1 **[(2) The President shall ensure that the**
2 **National Intelligence Director has all nec-**
3 **essary support and authorities to fully and ef-**
4 **fectively implement paragraph (1).**

5 **[(3) Except as otherwise directed by the**
6 **President or with the specific written agree-**
7 **ment of the head of the department or agency**
8 **in question, a Federal agency or official shall**
9 **not be considered to have met any obligation**
10 **to provide any information, report, assess-**
11 **ment, or other material (including**
12 **unevaluated intelligence information) to that**
13 **department or agency solely by virtue of hav-**
14 **ing provided that information, report, assess-**
15 **ment, or other material to the National Intel-**
16 **ligence Director or the National counter-**
17 **terrorism Center.**

18 **[(4) Not later than February 1 of each**
19 **year, the National Intelligence Director shall**
20 **submit to the President and to the Congress**
21 **an annual report that identifies any statute,**
22 **regulation, policy, or practice that the Direc-**
23 **tor believes impedes the ability of the Direc-**
24 **tor to fully and effectively implement para-**
25 **graph (1).**

1 **[(h) ANALYSIS.—(1) The National Intel-**
2 **ligence Director shall ensure that all elements**
3 **of the intelligence community strive for the**
4 **most accurate analysis of intelligence derived**
5 **from all sources to support national security**
6 **needs.**

7 **[(2) The National Intelligence Director**
8 **shall ensure that intelligence analysis gen-**
9 **erally receives the highest priority when dis-**
10 **tributing resources within the intelligence**
11 **community and shall carry out duties under**
12 **this subsection in a manner that—**

13 **[(A) develops all-source analysis**
14 **techniques;**

15 **[(B) ensures competitive analysis;**

16 **[(C) ensures that differences in judg-**
17 **ment are fully considered and brought to**
18 **the attention of policymakers; and**

19 **[(D) builds relationships between in-**
20 **telligence collectors and analysts to fa-**
21 **cilitate greater understanding of the**
22 **needs of analysts.**

23 **[(i) PROTECTION OF INTELLIGENCE**
24 **SOURCES AND METHODS.—(1) In order to pro-**
25 **tect intelligence sources and methods from**

1 unauthorized disclosure and, consistent with
2 that protection, to maximize the dissemina-
3 tion of intelligence, the National Intelligence
4 Director shall establish and implement guide-
5 lines for the intelligence community for the
6 following purposes:

7 **[(A) Classification of information.**

8 **[(B) Access to and dissemination of**
9 **intelligence, both in final form and in the**
10 **form when initially gathered.**

11 **[(C) Preparation of intelligence**
12 **products in such a way that source infor-**
13 **mation is removed to allow for dissemina-**
14 **tion at the lowest level of classification**
15 **possible or in unclassified form to the ex-**
16 **tent practicable.**

17 **[(2) The Director may only delegate a**
18 **duty or authority given the Director under**
19 **this subsection to the Deputy National Intel-**
20 **ligence Director.**

21 **[(j) UNIFORM PROCEDURES FOR SENSITIVE**
22 **COMPARTMENTED INFORMATION.—The Presi-**
23 **dent, acting through the National Intelligence**
24 **Director, shall—**

1 **[(1) establish uniform standards and**
2 **procedures for the grant of access to sen-**
3 **sitive compartmented information to any**
4 **officer or employee of any agency or de-**
5 **partment of the United States and to em-**
6 **ployees of contractors of those agencies**
7 **or departments;**

8 **[(2) ensure the consistent implemen-**
9 **tation of those standards and procedures**
10 **throughout such agencies and depart-**
11 **ments;**

12 **[(3) ensure that security clearances**
13 **granted by individual elements of the in-**
14 **telligence community are recognized by**
15 **all elements of the intelligence commu-**
16 **nity, and under contracts entered into by**
17 **those agencies; and**

18 **[(4) ensure that the process for in-**
19 **vestigation and adjudication of an appli-**
20 **cation for access to sensitive compart-**
21 **mented information is performed in the**
22 **most expeditious manner possible con-**
23 **sistent with applicable standards for na-**
24 **tional security.**

1 **[(k) COORDINATION WITH FOREIGN GOV-**
2 **ERNMENTS.—Under the direction of the Presi-**
3 **dent and in a manner consistent with section**
4 **207 of the Foreign Service Act of 1980 (22**
5 **U.S.C. 3927), the National Intelligence Direc-**
6 **tor shall oversee the coordination of the rela-**
7 **tionships between elements of the intel-**
8 **ligence community and the intelligence or se-**
9 **curity services of foreign governments on all**
10 **matters involving intelligence related to the**
11 **national security or involving intelligence ac-**
12 **quired through clandestine means.**

13 **[(l) ENHANCED PERSONNEL MANAGE-**
14 **MENT.—(1)(A) The National Intelligence Direc-**
15 **tor shall, under regulations prescribed by the**
16 **Director, provide incentives for personnel of**
17 **elements of the intelligence community to**
18 **serve—**

19 **[(i) on the staff of the National Intel-**
20 **ligence Director;**

21 **[(ii) on the staff of the national intel-**
22 **ligence centers;**

23 **[(iii) on the staff of the National**
24 **counterterrorism Center; and**

1 **[(iv) in other positions in support of**
2 **the intelligence community management**
3 **functions of the Director.**

4 **[(B) Incentives under subparagraph (A)**
5 **may include financial incentives, bonuses,**
6 **and such other awards and incentives as the**
7 **Director considers appropriate.**

8 **[(2)(A) Notwithstanding any other provi-**
9 **sion of law, the personnel of an element of the**
10 **intelligence community who are assigned or**
11 **detailed under paragraph (1)(A) to service**
12 **under the National Intelligence Director shall**
13 **be promoted at rates equivalent to or better**
14 **than personnel of such element who are not**
15 **so assigned or detailed.**

16 **[(B) The Director may prescribe regula-**
17 **tions to carry out this section.**

18 **[(3)(A) The National Intelligence Direc-**
19 **tor shall prescribe mechanisms to facilitate**
20 **the rotation of personnel of the intelligence**
21 **community through various elements of the**
22 **intelligence community in the course of their**
23 **careers in order to facilitate the widest pos-**
24 **sible understanding by such personnel of the**

1 variety of intelligence requirements, methods,
2 users, and capabilities.

3 **[(B) The mechanisms prescribed under**
4 **subparagraph (A) may include the following:**

5 **[(i) The establishment of special oc-**
6 **cupational categories involving service,**
7 **over the course of a career, in more than**
8 **one element of the intelligence commu-**
9 **nity.**

10 **[(ii) The provision of rewards for**
11 **service in positions undertaking analysis**
12 **and planning of operations involving two**
13 **or more elements of the intelligence com-**
14 **munity.**

15 **[(iii) The establishment of require-**
16 **ments for education, training, service,**
17 **and evaluation that involve service in**
18 **more than one element of the intelligence**
19 **community.**

20 **[(C) It is the sense of Congress that the**
21 **mechanisms prescribed under this subsection**
22 **should, to the extent practical, seek to dupli-**
23 **cate for civilian personnel within the intel-**
24 **ligence community the joint officer manage-**
25 **ment policies established by chapter 38 of**

1 title 10, United States Code, and the other
2 amendments made by title IV of the Gold-
3 water-Nichols Department of Defense Reorga-
4 nization Act of 1986 (Public Law 99–433).

5 [“(4)(A) This subsection shall not apply
6 with respect to personnel of the elements of
7 the intelligence community who are members
8 of the uniformed services or law enforcement
9 officers (as that term is defined in section
10 5541(3) of title 5, United States Code).

11 [“(B) Assignment to the Office of the Na-
12 tional Intelligence Director of commissioned
13 officers of the Armed Forces shall be consid-
14 ered a joint-duty assignment for purposes of
15 the joint officer management policies pre-
16 scribed by chapter 38 of title 10, United States
17 Code, and other provisions of that title.

18 [“(m) ADDITIONAL AUTHORITY WITH RE-
19 SPECT TO PERSONNEL.—(1) In addition to the
20 authorities under subsection (f)(3), the Na-
21 tional Intelligence Director may exercise with
22 respect to the personnel of the Office of the
23 National Intelligence Director any authority
24 of the Director of the Central Intelligence
25 Agency with respect to the personnel of the

1 Central Intelligence Agency under the Cen-
2 tral Intelligence Agency Act of 1949 (50 U.S.C.
3 403a et seq.), and other applicable provisions
4 of law, as of the date of the enactment of this
5 subsection to the same extent, and subject to
6 the same conditions and limitations, that the
7 Director of the Central Intelligence Agency
8 may exercise such authority with respect to
9 personnel of the Central Intelligence Agency.

10 [“(2) Employees and applicants for em-
11 ployment of the Office of the National Intel-
12 ligence Director shall have the same rights
13 and protections under the Office of the Na-
14 tional Intelligence Director as employees of
15 the Central Intelligence Agency have under
16 the Central Intelligence Agency Act of 1949,
17 and other applicable provisions of law, as of
18 the date of the enactment of this subsection.

19 [“(n) ACQUISITION AUTHORITIES.—(1) In
20 carrying out the responsibilities and authori-
21 ties under this section, the National Intel-
22 ligence Director may exercise the acquisition
23 authorities referred to in the Central Intel-
24 ligence Agency Act of 1949 (50 U.S.C. 403a et
25 seq.).

1 **[(2) For the purpose of the exercise of**
2 **any authority referred to in paragraph (1), a**
3 **reference to the head of an agency shall be**
4 **deemed to be a reference to the National In-**
5 **telligence Director or the Deputy National In-**
6 **telligence Director.**

7 **[(3)(A) Any determination or decision to**
8 **be made under an authority referred to in**
9 **paragraph (1) by the head of an agency may**
10 **be made with respect to individual purchases**
11 **and contracts or with respect to classes of**
12 **purchases or contracts, and shall be final.**

13 **[(B) Except as provided in subparagraph**
14 **(C), the National Intelligence Director or the**
15 **Deputy National Intelligence Director may, in**
16 **such official's discretion, delegate to any offi-**
17 **cer or other official of the Office of the Na-**
18 **tional Intelligence Director any authority to**
19 **make a determination or decision as the head**
20 **of the agency under an authority referred to**
21 **in paragraph (1).**

22 **[(C) The limitations and conditions set**
23 **forth in section 3(d) of the Central Intel-**
24 **ligence Agency Act of 1949 (50 U.S.C. 403c(d))**
25 **shall apply to the exercise by the National In-**

1 **telligence Director of an authority referred to**
2 **in paragraph (1).**

3 **[(D) Each determination or decision re-**
4 **quired by an authority referred to in the sec-**
5 **ond sentence of section 3(d) of the Central In-**
6 **telligence Agency Act of 1949 shall be based**
7 **upon written findings made by the official**
8 **making such determination or decision,**
9 **which findings shall be final and shall be**
10 **available within the Office of the National In-**
11 **telligence Director for a period of at least six**
12 **years following the date of such determina-**
13 **tion or decision.**

14 **[(o) CONSIDERATION OF VIEWS OF ELE-**
15 **MENTS OF THE INTELLIGENCE COMMUNITY.—In**
16 **carrying out the duties and responsibilities**
17 **under this section, the National Intelligence**
18 **Director shall take into account the views of**
19 **a head of a department containing an element**
20 **of the intelligence community and of the Di-**
21 **rector of the Central Intelligence Agency.**

22 **["OFFICE OF THE NATIONAL INTELLIGENCE**
23 **DIRECTOR**

24 **["SEC. 103. (a) ESTABLISHMENT OF OFFICE;**
25 **FUNCTION.—(1) There is an Office of the Na-**
26 **tional Intelligence Director. The Office of the**

1 **National Intelligence Director shall not be lo-**
2 **cated within the Executive Office of the Presi-**
3 **dent.**

4 **[(2) The function of the Office is to assist**
5 **the National Intelligence Director in carrying**
6 **out the duties and responsibilities of the Di-**
7 **rector under this Act and to carry out such**
8 **other duties as may be prescribed by the**
9 **President or by law.**

10 **[(3) Any authority, power, or function**
11 **vested by law in any officer, employee, or part**
12 **of the Office of the National Intelligence Di-**
13 **rector is vested in, or may be exercised by, the**
14 **National Intelligence Director.**

15 **[(4) Exemptions, exceptions, and exclu-**
16 **sions for the Central Intelligence Agency or**
17 **for personnel, resources, or activities of such**
18 **Agency from otherwise applicable laws, other**
19 **than the exception contained in section**
20 **104A(c)(1) shall apply in the same manner to**
21 **the Office of the National Intelligence Direc-**
22 **tor and the personnel, resources, or activities**
23 **of such Office.**

24 **[(b) OFFICE OF NATIONAL INTELLIGENCE**
25 **DIRECTOR.—(1) The Office of the National In-**

1 **telligence Director is composed of the fol-**
2 **lowing:**

3 **[(A) The National Intelligence Direc-**
4 **tor.**

5 **[(B) The Deputy National Intel-**
6 **ligence Director.**

7 **[(C) The Deputy National Intel-**
8 **ligence Director for Operations.**

9 **[(D) The Deputy National Intel-**
10 **ligence Director for Community Manage-**
11 **ment and Resources.**

12 **[(E) The Associate National Intel-**
13 **ligence Director for Military Support.**

14 **[(F) The Associate National Intel-**
15 **ligence Director for Domestic Security.**

16 **[(G) The Associate National Intel-**
17 **ligence Director for Diplomatic Affairs.**

18 **[(H) The National Intelligence Coun-**
19 **cil.**

20 **[(I) The General Counsel to the Na-**
21 **tional Intelligence Director.**

22 **[(J) Such other offices and officials**
23 **as may be established by law or the Na-**
24 **tional Intelligence Director may establish**
25 **or designate in the Office.**

1 **[(2) To assist the National Intelligence**
2 **Director in fulfilling the duties and respon-**
3 **sibilities of the Director, the Director shall**
4 **employ and utilize in the Office of the Na-**
5 **tional Intelligence Director a staff having ex-**
6 **pertise in matters relating to such duties and**
7 **responsibilities and may establish permanent**
8 **positions and appropriate rates of pay with**
9 **respect to such staff.**

10 **[(c) DEPUTY NATIONAL INTELLIGENCE DI-**
11 **RECTOR.—(1) There is a Deputy National Intel-**
12 **ligence Director who shall be appointed by**
13 **the President, by and with the advice and**
14 **consent of the Senate.**

15 **[(2) The Deputy National Intelligence Di-**
16 **rector shall assist the National Intelligence**
17 **Director in carrying out the responsibilities**
18 **of the National Intelligence Director under**
19 **this Act.**

20 **[(3) The Deputy National Intelligence Di-**
21 **rector shall act for, and exercise the powers**
22 **of, the National Intelligence Director during**
23 **the absence or disability of the National Intel-**
24 **ligence Director or during a vacancy in the**
25 **position of the National Intelligence Director.**

1 **[(4) The Deputy National Intelligence Di-**
2 **rector takes precedence in the Office of the**
3 **National Intelligence Director immediately**
4 **after the National Intelligence Director.**

5 **[(d) DEPUTY NATIONAL INTELLIGENCE DI-**
6 **RECTOR FOR OPERATIONS.—(1) There is a Dep-**
7 **uty National Intelligence Director for Oper-**
8 **ations.**

9 **[(2) The Deputy National Intelligence Di-**
10 **rector for Operations shall—**

11 **[(A) assist the National Intelligence**
12 **Director in all aspects of intelligence op-**
13 **erations, including intelligence tasking,**
14 **requirements, collection, and analysis;**

15 **[(B) assist the National Intelligence**
16 **Director in overseeing the national intel-**
17 **ligence centers; and**

18 **[(C) perform such other duties and**
19 **exercise such powers as National Intel-**
20 **ligence Director may prescribe.**

21 **[(e) DEPUTY NATIONAL INTELLIGENCE DI-**
22 **RECTOR FOR COMMUNITY MANAGEMENT AND RE-**
23 **SOURCES.—(1) There is a Deputy National In-**
24 **telligence Director for Community Manage-**
25 **ment and Resources.**

1 **[(2) The Deputy National Intelligence Di-**
2 **rector for Community Management and Re-**
3 **sources shall—**

4 **[(A) assist the National Intelligence**
5 **Director in all aspects of management**
6 **and resources, including administration,**
7 **budgeting, information security, per-**
8 **sonnel, training, and programmatic func-**
9 **tions; and**

10 **[(B) perform such other duties and**
11 **exercise such powers as the National In-**
12 **telligence Director may prescribe.**

13 **[(f) ASSOCIATE NATIONAL INTELLIGENCE DI-**
14 **RECTOR FOR MILITARY SUPPORT.—(1) There is**
15 **an Associate National Intelligence Director**
16 **for Military Support who shall be appointed**
17 **by the National Intelligence Director, in con-**
18 **sultation with the Secretary of Defense.**

19 **[(2) The Associate National Intelligence**
20 **Director for Military Support shall—**

21 **[(A) ensure that the intelligence**
22 **needs of the Department of Defense are**
23 **met; and**

1 **[(B) perform such other duties and**
2 **exercise such powers as the National In-**
3 **telligence Director may prescribe.**

4 **[(g) ASSOCIATE NATIONAL INTELLIGENCE**
5 **DIRECTOR FOR DOMESTIC SECURITY.—(1) There**
6 **is an Associate National Intelligence Director**
7 **for Domestic Security who shall be appointed**
8 **by the National Intelligence Director in con-**
9 **sultation with the Attorney General and the**
10 **Secretary of Homeland Security.**

11 **[(2) The Associate National Intelligence**
12 **Director for Domestic Security shall—**

13 **[(A) ensure that the intelligence**
14 **needs of the Department of Justice, the**
15 **Department of Homeland Security, and**
16 **other relevant executive departments**
17 **and agencies are met; and**

18 **[(B) perform such other duties and**
19 **exercise such powers as the National In-**
20 **telligence Director may prescribe, except**
21 **that the National Intelligence Director**
22 **may not make such officer responsible**
23 **for disseminating any domestic or home-**
24 **land security information to State gov-**

1 **ernment or local government officials or**
2 **any private sector entity.**

3 **[(“h) ASSOCIATE NATIONAL INTELLIGENCE**
4 **DIRECTOR FOR DIPLOMATIC AFFAIRS.—(1) There**
5 **is an Associate National Intelligence Director**
6 **for Diplomatic Affairs who shall be appointed**
7 **by the National Intelligence Director in con-**
8 **sultation with the Secretary of State.**

9 **[(“2) The Associate National Intelligence**
10 **Director for Diplomatic Affairs shall—**

11 **[(“A) ensure that the intelligence**
12 **needs of the Department of State are met;**
13 **and**

14 **[(“B) perform such other duties and**
15 **exercise such powers as the National In-**
16 **telligence Director may prescribe.**

17 **[(“i) MILITARY STATUS OF DIRECTOR AND**
18 **DEPUTY DIRECTORS.—(1) Not more than one of**
19 **the individuals serving in the positions speci-**
20 **fied in paragraph (2) may be a commissioned**
21 **officer of the Armed Forces in active status.**

22 **[(“2) The positions referred to in this**
23 **paragraph are the following:**

24 **[(“A) The National Intelligence Direc-**
25 **tor.**

1 **[(B) The Deputy National Intel-**
2 **ligence Director.**

3 **[(3) It is the sense of Congress that,**
4 **under ordinary circumstances, it is desirable**
5 **that one of the individuals serving in the posi-**
6 **tions specified in paragraph (2)—**

7 **[(A) be a commissioned officer of the**
8 **Armed Forces, in active status; or**

9 **[(B) have, by training or experience,**
10 **an appreciation of military intelligence**
11 **activities and requirements.**

12 **[(4) A commissioned officer of the Armed**
13 **Forces, while serving in a position specified**
14 **in paragraph (2)—**

15 **[(A) shall not be subject to super-**
16 **vision or control by the Secretary of De-**
17 **fense or by any officer or employee of the**
18 **Department of Defense;**

19 **[(B) shall not exercise, by reason of**
20 **the officer's status as a commissioned of-**
21 **ficer, any supervision or control with re-**
22 **spect to any of the military or civilian**
23 **personnel of the Department of Defense**
24 **except as otherwise authorized by law;**
25 **and**

1 **[(C) shall not be counted against the**
2 **numbers and percentages of commis-**
3 **sioned officers of the rank and grade of**
4 **such officer authorized for the military**
5 **department of that officer.**

6 **[(5) Except as provided in subparagraph**
7 **(A) or (B) of paragraph (4), the appointment**
8 **of an officer of the Armed Forces to a position**
9 **specified in paragraph (2) shall not affect the**
10 **status, position, rank, or grade of such officer**
11 **in the Armed Forces, or any emolument, per-**
12 **quisite, right, privilege, or benefit incident to**
13 **or arising out of such status, position, rank,**
14 **or grade.**

15 **[(6) A commissioned officer of the Armed**
16 **Forces on active duty who is appointed to a**
17 **position specified in paragraph (2), while**
18 **serving in such position and while remaining**
19 **on active duty, shall continue to receive mili-**
20 **tary pay and allowances and shall not receive**
21 **the pay prescribed for such position. Funds**
22 **from which such pay and allowances are paid**
23 **shall be reimbursed from funds available to**
24 **the National Intelligence Director.**

1 **[(“j) NATIONAL INTELLIGENCE COUNCIL.—(1)**
2 **Within the Office of the Deputy National In-**
3 **telligence Director for Operations, there is a**
4 **National Intelligence Council.**

5 **[(“2)(A) The National Intelligence Council**
6 **shall be composed of senior analysts within**
7 **the intelligence community and substantive**
8 **experts from the public and private sector,**
9 **who shall be appointed by and report to the**
10 **Deputy National Intelligence Director for Op-**
11 **erations.**

12 **[(“B) The Director shall prescribe appro-**
13 **priate security requirements for personnel**
14 **appointed from the private sector as a condi-**
15 **tion of service on the Council, or as contrac-**
16 **tors of the Council or employees of such con-**
17 **tractors, to ensure the protection of intel-**
18 **ligence sources and methods while avoiding,**
19 **wherever possible, unduly intrusive require-**
20 **ments which the Director considers to be un-**
21 **necessary for this purpose.**

22 **[(“3) The National Intelligence Council**
23 **shall—**

24 **[(“A) produce national intelligence**
25 **estimates for the United States Govern-**

1 ment, which shall include as a part of
2 such estimates in their entirety, alter-
3 native views, if any, held by elements of
4 the intelligence community;

5 [“(B) evaluate community-wide col-
6 lection and production of intelligence by
7 the intelligence community and the re-
8 quirements and resources of such collec-
9 tion and production; and

10 [“(C) otherwise assist the National In-
11 telligence Director in carrying out the re-
12 sponsibility of the National Intelligence
13 Director to provide national intelligence.

14 [“(4) Within their respective areas of ex-
15 pertise and under the direction of the Deputy
16 National Intelligence Director for Operations,
17 the members of the National Intelligence
18 Council shall constitute the senior intel-
19 ligence advisers of the intelligence commu-
20 nity for purposes of representing the views of
21 the intelligence community within the United
22 States Government.

23 [“(5) Subject to the direction and control
24 of the Deputy National Intelligence Director
25 for Operations, the National Intelligence

1 Council may carry out its responsibilities
2 under this section by contract, including con-
3 tracts for substantive experts necessary to as-
4 sist the Council with particular assessments
5 under this subsection.

6 [“(6) The Deputy National Intelligence Di-
7 rector for Operations shall make available to
8 the National Intelligence Council such per-
9 sonnel as may be necessary to permit the
10 Council to carry out its responsibilities under
11 this section.

12 [“(7) The heads of the elements of the in-
13 telligence community shall, as appropriate,
14 furnish such support to the National Intel-
15 ligence Council, including the preparation of
16 intelligence analyses, as may be required by
17 the National Intelligence Director.

18 [“(k) GENERAL COUNSEL TO THE NATIONAL
19 INTELLIGENCE DIRECTOR.—(1) There is a Gen-
20 eral Counsel to the National Intelligence Di-
21 rector.

22 [“(2) The individual serving in the posi-
23 tion of General Counsel to the National Intel-
24 ligence Director may not, while so serving,

1 also serve as the General Counsel of any other
2 agency or department of the United States.

3 **[(“(3) The General Counsel to the National**
4 **Intelligence Director is the chief legal officer**
5 **for the National Intelligence Director.**

6 **[(“(4) The General Counsel to the National**
7 **Intelligence Director shall perform such func-**
8 **tions as the National Intelligence Director**
9 **may prescribe.**

10 **[(“(1) INTELLIGENCE COMMUNITY INFORMA-**
11 **TION TECHNOLOGY OFFICER.—(1) There is an In-**
12 **telligence Community Information Tech-**
13 **nology Officer who shall be appointed by the**
14 **National Intelligence Director.**

15 **[(“(2) The mission of the Intelligence Com-**
16 **munity Information Technology Officer is to**
17 **assist the National Intelligence Director in en-**
18 **suring the sharing of information in the full-**
19 **est and most prompt manner between and**
20 **among elements of the intelligence commu-**
21 **nity consistent with section 102A(g).**

22 **[(“(3) The Intelligence Community Infor-**
23 **mation Technology Officer shall—**

24 **[(“(A) assist the Deputy National Intel-**
25 **ligence Director for Community Manage-**

1 **ment and Resources in developing and**
2 **implementing an integrated information**
3 **technology network;**

4 **[(B) develop an enterprise architec-**
5 **ture for the intelligence community and**
6 **assist the Deputy National Intelligence**
7 **Director for Community Management**
8 **and Resources in ensuring that elements**
9 **of the intelligence community comply**
10 **with such architecture;**

11 **[(C) have procurement approval au-**
12 **thority over all enterprise architecture-**
13 **related information technology items**
14 **funded in the National Intelligence Pro-**
15 **gram;**

16 **[(D) ensure that all such elements**
17 **have the most direct and continuous elec-**
18 **tronic access to all information (includ-**
19 **ing unevaluated intelligence consistent**
20 **with existing laws and the guidelines re-**
21 **ferred to in section 102A(b)) necessary for**
22 **appropriately cleared analysts to conduct**
23 **comprehensive all-source analysis and**
24 **for appropriately cleared policymakers to**
25 **perform their duties—**

1 **[(i) directly, in the case of the**
2 **elements of the intelligence commu-**
3 **nity within the National Intelligence**
4 **Program, and**

5 **[(ii) in conjunction with the Sec-**
6 **retary of Defense and other applica-**
7 **ble heads of departments with intel-**
8 **ligence elements outside the National**
9 **Intelligence Program;**

10 **[(E) review and provide rec-**
11 **ommendations to the Deputy National In-**
12 **telligence Director for Community Man-**
13 **agement and Resources on National Intel-**
14 **ligence Program budget requests for in-**
15 **formation technology and national secu-**
16 **rity systems;**

17 **[(F) assist the Deputy National Intel-**
18 **ligence Director for Community Manage-**
19 **ment and Resources in promulgating and**
20 **enforcing standards on information tech-**
21 **nology and national security systems that**
22 **apply throughout the elements of the in-**
23 **telligence community;**

24 **[(G) ensure that within and between**
25 **the elements of the National Intelligence**

1 **Program, duplicative and unnecessary in-**
2 **formation technology and national secu-**
3 **rity systems are eliminated; and**

4 **[(H) pursuant to the direction of the**
5 **National Intelligence Director, consult**
6 **with the Director of the Office of Manage-**
7 **ment and Budget to ensure that the Of-**
8 **fice of the National Intelligence Director**
9 **coordinates and complies with national**
10 **security requirements consistent with ap-**
11 **plicable law, Executive orders, and guid-**
12 **ance; and**

13 **[(I) perform such other duties with**
14 **respect to the information systems and**
15 **information technology of the Office of**
16 **the National Intelligence Director as may**
17 **be prescribed by the Deputy National In-**
18 **telligence Director for Community Man-**
19 **agement and Resources or specified by**
20 **law.**

21 **["CENTRAL INTELLIGENCE AGENCY**

22 **["SEC. 104. (a) CENTRAL INTELLIGENCE**
23 **AGENCY.—There is a Central Intelligence**
24 **Agency.**

25 **[(b) FUNCTION.—The function of the Cen-**
26 **tral Intelligence Agency is to assist the Direc-**

6 **["SEC. 104A. (a) DIRECTOR OF CENTRAL IN-**
7 **TELLIGENCE AGENCY.—There is a Director of**
8 **the Central Intelligence Agency who shall be**
9 **appointed by the President, by and with the**
10 **advice and consent of the Senate. The Direc-**
11 **tor shall be under the authority, direction,**
12 **and control of the National Intelligence Direc-**
13 **tor, except as otherwise determined by the**
14 **President.**

15 **[(b) DUTIES.—In the capacity as Director**
16 **of the Central Intelligence Agency, the Direc-**
17 **tor of the Central Intelligence Agency shall—**

20 **[“(2) serve as the head of the Central**
21 **Intelligence Agency.**

22 **[(c) RESPONSIBILITIES.—The Director of**
23 **the Central Intelligence Agency shall—**

24 **[(1) collect intelligence through**
25 **human sources and by other appropriate**
26 **means, except that the Director of the**

1 **Central Intelligence Agency shall have no**
2 **police, subpoena, or law enforcement**
3 **powers or internal security functions;**

4 **[(2) provide overall direction for the**
5 **collection of national intelligence over-**
6 **seas or outside of the United States**
7 **through human sources by elements of**
8 **the intelligence community authorized to**
9 **undertake such collection and, in coordi-**
10 **nation with other agencies of the Govern-**
11 **ment which are authorized to undertake**
12 **such collection, ensure that the most ef-**
13 **fective use is made of resources and that**
14 **the risks to the United States and those**
15 **involved in such collection are mini-**
16 **mized;**

17 **[(3) correlate and evaluate intel-**
18 **ligence related to the national security**
19 **and provide appropriate dissemination of**
20 **such intelligence;**

21 **[(4) perform such additional services**
22 **as are of common concern to the ele-**
23 **ments of the intelligence community,**
24 **which services the National Intelligence**

1 **Director determines can be more effi-**
2 **ciently accomplished centrally; and**

3 **[(5) perform such other functions**
4 **and duties related to intelligence affect-**
5 **ing the national security as the President**
6 **or the National Intelligence Director may**
7 **direct.**

8 **[(d) DEPUTY DIRECTOR OF THE CENTRAL IN-**
9 **TELLIGENCE AGENCY.—There is a Deputy Direc-**
10 **tor of the Central Intelligence Agency who**
11 **shall be appointed by the President. The Dep-**
12 **uty Director shall perform such functions as**
13 **the Director may prescribe and shall perform**
14 **the duties of the Director during the Direc-**
15 **tor's absence or disability or during a vacancy**
16 **in the position of the Director of the Central**
17 **Intelligence Agency.**

18 **[(e) TERMINATION OF EMPLOYMENT OF CIA**
19 **EMPLOYEES.—(1) Notwithstanding the provi-**
20 **sions of any other law, the Director of the**
21 **Central Intelligence Agency may, in the dis-**
22 **cretion of the Director, terminate the employ-**
23 **ment of any officer or employee of the Central**
24 **Intelligence Agency whenever the Director**
25 **considers the termination of employment of**

1 such officer or employee necessary or advis-
2 able in the interests of the United States.

3 **[(2) Any termination of employment of**
4 **an officer or employee under paragraph (1)**
5 **shall not affect the right of the officer or em-**
6 **ployee to seek or accept employment in any**
7 **other department, agency, or element of the**
8 **United States Government if declared eligible**
9 **for such employment by the Office of Per-**
10 **sonnel Management.”.**

11 **[(b) FIRST DIRECTOR.—(1) When the Senate**
12 **receives the nomination of a person for the**
13 **initial appointment by the President for the**
14 **position of National Intelligence Director, it**
15 **shall consider and dispose of such nomination**
16 **within a period of 30 legislative days.**

17 **[(2) If the Senate does not dispose of such**
18 **nomination referred to in paragraph (1) with-**
19 **in such period—**

20 **[(A) Senate confirmation is not re-**
21 **quired; and**

22 **[(B) the appointment of such nomi-**
23 **nee as National Intelligence Director**
24 **takes effect upon administration of the**
25 **oath of office.**

1 **[(3) For the purposes of this subsection,**
2 **the term “legislative day” means a day on**
3 **which the Senate is in session.**

4 **[SEC. 1012. REVISED DEFINITION OF NATIONAL INTEL-**
5 **LIGENCE.**

6 **[Paragraph (5) of section 3 of the National**
7 **Security Act of 1947 (50 U.S.C. 401a) is amend-**
8 **ed to read as follows:**

9 **[“(5) The terms ‘national intelligence’**
10 **and ‘intelligence related to national secu-**
11 **rity’ refer to all intelligence, regardless of**
12 **the source from which derived and in-**
13 **cluding information gathered within or**
14 **outside the United States, that—**

15 **[“(A) pertains, as determined con-**
16 **sistent with any guidance issued by**
17 **the President, to more than one**
18 **United States Government agency;**
19 **and**

20 **[“(B) that involves—**

21 **[“(i) threats to the United**
22 **States, its people, property, or in-**
23 **terests;**

1 **[(“ii) the development, pro-**
2 **liferation, or use of weapons of**
3 **mass destruction; or**

4 **[(“iii) any other matter bear-**
5 **ing on United States national or**
6 **homeland security.”.**

7 **[SEC. 1013. JOINT PROCEDURES FOR OPERATIONAL CO-**
8 **ORDINATION BETWEEN DEPARTMENT OF DE-**
9 **FENSE AND CENTRAL INTELLIGENCE AGEN-**
10 **CY.**

11 **[(a) DEVELOPMENT OF PROCEDURES.—The**
12 **National Intelligence Director, in consulta-**
13 **tion with the Secretary of Defense and the Di-**
14 **rector of the Central Intelligence Agency,**
15 **shall develop joint procedures to be used by**
16 **the Department of Defense and the Central**
17 **Intelligence Agency to improve the coordina-**
18 **tion and deconfliction of operations that in-**
19 **volve elements of both the Armed Forces and**
20 **the Central Intelligence Agency consistent**
21 **with national security and the protection of**
22 **human intelligence sources and methods.**
23 **Those procedures shall, at a minimum, pro-**
24 **vide the following:**

1 **[(1) Methods by which the Director of**
2 **the Central Intelligence Agency and the**
3 **Secretary of Defense can improve com-**
4 **munication and coordination in the plan-**
5 **ning, execution, and sustainment of oper-**
6 **ations, including, as a minimum—**

7 **[(A) information exchange be-**
8 **tween senior officials of the Central**
9 **Intelligence Agency and senior offi-**
10 **cers and officials of the Department**
11 **of Defense when planning for such an**
12 **operation commences by either orga-**
13 **nization; and**

14 **[(B) exchange of information be-**
15 **tween the Secretary and the Director**
16 **of the Central Intelligence Agency to**
17 **ensure that senior operational offi-**
18 **cial in both the Department of De-**
19 **fense and the Central Intelligence**
20 **Agency have knowledge of the exist-**
21 **ence of the ongoing operations of the**
22 **other.**

23 **[(2) When appropriate, in cases**
24 **where the Department of Defense and the**
25 **Central Intelligence Agency are con-**

1 ducting separate missions in the same
2 geographical area, mutual agreement on
3 the tactical and strategic objectives for
4 the region and a clear delineation of
5 operational responsibilities to prevent
6 conflict and duplication of effort.

7 **[(b) IMPLEMENTATION REPORT.—Not later**
8 **than 180 days after the date of the enactment**
9 **of the Act, the National Intelligence Director**
10 **shall submit to the congressional defense**
11 **committees (as defined in section 101 of title**
12 **10, United States Code) and the congressional**
13 **intelligence committees (as defined in section**
14 **3(7) of the National Security Act of 1947 (50**
15 **U.S.C. 401a(7))) a report describing the proce-**
16 **dures established pursuant to subsection (a)**
17 **and the status of the implementation of those**
18 **procedures.**

19 **[SEC. 1014. ROLE OF NATIONAL INTELLIGENCE DIRECTOR**
20 **IN APPOINTMENT OF CERTAIN OFFICIALS RE-**
21 **SPONSIBLE FOR INTELLIGENCE-RELATED AC-**
22 **TIVITIES.**

23 **[Section 106 of the National Security Act**
24 **of 1947 (50 U.S.C. 403–6) is amended by strik-**

1 ing all after the heading and inserting the fol-
2 lowing:

3 **[(a) RECOMMENDATION OF NID IN CERTAIN**
4 **APPOINTMENTS.—(1) In the event of a vacancy**
5 **in a position referred to in paragraph (2), the**
6 **National Intelligence Director shall rec-**
7 **ommend to the President an individual for**
8 **nomination to fill the vacancy.**

9 **[(2) Paragraph (1) applies to the fol-**
10 **lowing positions:**

11 **[(A) The Deputy National Intel-**
12 **ligence Director.**

13 **[(B) The Director of the Central In-**
14 **telligence Agency.**

15 **[(b) CONCURRENCE OF NID IN APPOINT-**
16 **MENTS TO POSITIONS IN THE INTELLIGENCE COM-**
17 **MUNITY.—(1) In the event of a vacancy in a po-**
18 **sition referred to in paragraph (2), the head**
19 **of the department or agency having jurisdic-**
20 **tion over the position shall obtain the concur-**
21 **rence of the National Intelligence Director be-**
22 **fore appointing an individual to fill the va-**
23 **cancy or recommending to the President an**
24 **individual to be nominated to fill the vacancy.**
25 **If the Director does not concur in the rec-**

1 **ommendation, the head of the department or**
2 **agency concerned may not fill the vacancy or**
3 **make the recommendation to the President**
4 **(as the case may be).**

5 **["(2) Paragraph (1) applies to the fol-**
6 **lowing positions:**

7 **["(A) The Director of the National Se-**
8 **curity Agency.**

9 **["(B) The Director of the National Re-**
10 **connaissance Office.**

11 **["(C) The Director of the National**
12 **Geospatial-Intelligence Agency.**

13 **["(c) CONSULTATION WITH NATIONAL INTEL-**
14 **LIGENCE DIRECTOR IN CERTAIN POSITIONS.—(1)**
15 **In the event of a vacancy in a position re-**
16 **ferred to in paragraph (2), the head of the de-**
17 **partment or agency having jurisdiction over**
18 **the position shall consult with the National**
19 **Intelligence Director before appointing an in-**
20 **dividual to fill the vacancy or recommending**
21 **to the President an individual to be nomi-**
22 **nated to fill the vacancy.**

23 **["(2) Paragraph (1) applies to the fol-**
24 **lowing positions:**

1 **[(A) The Director of the Defense In-**
2 **telligence Agency.**

3 **[(B) The Assistant Secretary of State**
4 **for Intelligence and Research.**

5 **[(C) The Director of the Office of In-**
6 **telligence of the Department of Energy.**

7 **[(D) The Director of the Office of**
8 **counterintelligence of the Department of**
9 **Energy.**

10 **[(E) The Assistant Secretary for In-**
11 **telligence and Analysis of the Depart-**
12 **ment of the Treasury.**

13 **[(F) The Executive Assistant Direc-**
14 **tor for Intelligence of the Federal Bureau**
15 **of Investigation or that officer's suc-**
16 **cessor.**

17 **[(G) The Under Secretary of Home-**
18 **land Security for Information Analysis**
19 **and Infrastructure Protection.**

20 **[(H) The Deputy Assistant Com-**
21 **mandant of the Coast Guard for Intel-**
22 **ligence.**

1 [SEC. 1015. INITIAL APPOINTMENT OF THE NATIONAL IN-
2 TELLIGENCE DIRECTOR.

3 [(a) INITIAL APPOINTMENT OF THE NATIONAL
4 INTELLIGENCE DIRECTOR.—Notwithstanding
5 section 102(a)(1) of the National Security Act
6 of 1947, as added by section 1011(a), the indi-
7 vidual serving as the Director of Central In-
8 telligence on the date immediately preceding
9 the date of the enactment of this Act may, at
10 the discretion of the President, become the
11 National Intelligence Director as of the date
12 of the enactment of this Act.

13 [(b) GENERAL REFERENCES.—(1) Any ref-
14 erence to the Director of Central Intelligence
15 in the Director's capacity as the head of the
16 intelligence community in any law, regula-
17 tion, document, paper, or other record of the
18 United States shall be deemed to be a ref-
19 erence to the National Intelligence Director.

20 [(2) Any reference to the Director of Cen-
21 tral Intelligence in the Director's capacity as
22 the head of the Central Intelligence Agency in
23 any law, regulation, document, paper, or
24 other record of the United States shall be
25 deemed to be a reference to the Director of
26 the Central Intelligence Agency.

1 **[(3) Any reference to the Deputy Director**
2 **of Central Intelligence in the Deputy Direc-**
3 **tor’s capacity as deputy to the head of the in-**
4 **telligence community in any law, regulation,**
5 **document, paper, or other record of the**
6 **United States shall be deemed to be a ref-**
7 **erence to the Deputy National Intelligence Di-**
8 **rector.**

9 **[(4) Any reference to the Deputy Director**
10 **of Central Intelligence for Community Man-**
11 **agement in any law, regulation, document,**
12 **paper, or other record of the United States**
13 **shall be deemed to be a reference to the Dep-**
14 **uty National Intelligence Director for Com-**
15 **munity Management and Resources.**

16 **[SEC. 1016. EXECUTIVE SCHEDULE MATTERS.**

17 **[(a) EXECUTIVE SCHEDULE LEVEL I.—Sec-**
18 **tion 5312 of title 5, United States Code, is**
19 **amended by adding the end the following new**
20 **item:**

21 **[“National Intelligence Director.”.**

22 **[(b) EXECUTIVE SCHEDULE LEVEL II.—Sec-**
23 **tion 5313 of title 5, United States Code, is**
24 **amended by adding at the end the following**
25 **new items:**

1 **["Deputy National Intelligence Direc-**
2 **tor.**

3 **["Director of the National counter-**
4 **terrorism Center.".**

5 **[(c) EXECUTIVE SCHEDULE LEVEL IV.—Sec-**
6 **tion 5315 of title 5, United States Code, is**
7 **amended by striking the item relating to the**
8 **Assistant Directors of Central Intelligence.**

9 **[Subtitle B—National counter-**
10 **terrorism Center and Civil Lib-**
11 **erties Protections**

12 **[SEC. 1021. NATIONAL counterterrorism CENTER.**

13 **[(a) IN GENERAL.—Title I of the National**
14 **Security Act of 1947 (50 U.S.C. 402 et seq.) is**
15 **amended by adding at the end the following**
16 **new section:**

17 **["NATIONAL COUNTERTERRORISM CENTER**

18 **["SEC. 119. (a) ESTABLISHMENT OF CEN-**
19 **TER.—There is within the Office of the Na-**
20 **tional Intelligence Director a National**
21 **counterterrorism Center.**

22 **["(b) DIRECTOR OF NATIONAL COUNTER-**
23 **TERRORISM CENTER.—There is a Director of the**
24 **National counterterrorism Center, who shall**
25 **be the head of the National counterterrorism**

1 Center, who shall be appointed by National
2 Intelligence Director.

3 **[(c) SUPERVISION.—The Director of the**
4 **National counterterrorism Center shall re-**
5 **port to the National Intelligence Director on—**

6 **[(1) the budget and programs of the**
7 **National counterterrorism Center;**

8 **[(2) the activities of the Directorate**
9 **of Intelligence of the National counter-**
10 **terrorism Center under subsection (h);**

11 **[(3) the conduct of intelligence oper-**
12 **ations implemented by other elements of**
13 **the intelligence community; and**

14 **[(4) the planning and progress of**
15 **joint counterterrorism operations (other**
16 **than intelligence operations).**

17 **The National Intelligence Director shall carry**
18 **out this section through the Deputy National**
19 **Intelligence Director for Operations.**

20 **[(d) PRIMARY MISSIONS.—The primary**
21 **missions of the National counterterrorism**
22 **Center shall be as follows:**

23 **[(1) To serve as the primary organi-**
24 **zation in the United States Government**
25 **for analyzing and integrating all intel-**

1 **ligence possessed or acquired by the**
2 **United States Government pertaining to**
3 **terrorism and counterterrorism, except-**
4 **ing intelligence pertaining exclusively to**
5 **domestic counterterrorism.**

6 **[(2) To conduct strategic operational**
7 **planning for counterterrorism activities,**
8 **integrating all instruments of national**
9 **power, including diplomatic, financial,**
10 **military, intelligence, homeland security,**
11 **and law enforcement activities within**
12 **and among agencies.**

13 **[(3) To support operational respon-**
14 **sibilities assigned to lead agencies for**
15 **counterterrorism activities by ensuring**
16 **that such agencies have access to and re-**
17 **ceive intelligence needed to accomplish**
18 **their assigned activities.**

19 **[(4) To ensure that agencies, as ap-**
20 **propriate, have access to and receive all-**
21 **source intelligence support needed to**
22 **execute their counterterrorism plans or**
23 **perform independent, alternative anal-**
24 **ysis.**

1 **[(e) DOMESTIC COUNTERTERRORISM INTEL-**
2 **LIGENCE.—(1) The Center may, consistent with**
3 **applicable law, the direction of the President,**
4 **and the guidelines referred to in section**
5 **102A(b), receive intelligence pertaining exclu-**
6 **sively to domestic counterterrorism from any**
7 **Federal, State, or local government or other**
8 **source necessary to fulfill its responsibilities**
9 **and retain and disseminate such intelligence.**

10 **[(2) Any agency authorized to conduct**
11 **counterterrorism activities may request infor-**
12 **mation from the Center to assist it in its re-**
13 **sponsibilities, consistent with applicable law**
14 **and the guidelines referred to in section**
15 **102A(b).**

16 **[(f) DUTIES AND RESPONSIBILITIES OF DI-**
17 **RECTOR.—The Director of the National**
18 **counterterrorism Center shall—**

19 **[(1) serve as the principal adviser to**
20 **the National Intelligence Director on in-**
21 **telligence operations relating to counter-**
22 **terrorism;**

23 **[(2) provide strategic guidance and**
24 **plans for the civilian and military**
25 **counterterrorism efforts of the United**

1 **States Government and for the effective**
2 **integration of counterterrorism intel-**
3 **ligence and operations across agency**
4 **boundaries, both inside and outside the**
5 **United States;**

6 **[(3) advise the National Intelligence**
7 **Director on the extent to which the**
8 **counterterrorism program recommenda-**
9 **tions and budget proposals of the depart-**
10 **ments, agencies, and elements of the**
11 **United States Government conform to the**
12 **priorities established by the President;**

13 **[(4) disseminate terrorism informa-**
14 **tion, including current terrorism threat**
15 **analysis, to the President, the Vice Presi-**
16 **dent, the Secretaries of State, Defense,**
17 **and Homeland Security, the Attorney**
18 **General, the Director of the Central Intel-**
19 **ligence Agency, and other officials of the**
20 **executive branch as appropriate, and to**
21 **the appropriate committees of Congress;**

22 **[(5) support the Department of Jus-**
23 **tice and the Department of Homeland Se-**
24 **curity, and other appropriate agencies, in**
25 **fulfillment of their responsibilities to dis-**

1 **seminate terrorism information, con-**
2 **sistent with applicable law, guidelines re-**
3 **ferred to in section 102A(b), Executive**
4 **Orders and other Presidential guidance,**
5 **to State and local government officials,**
6 **and other entities, and coordinate dis-**
7 **semination of terrorism information to**
8 **foreign governments as approved by the**
9 **National Intelligence Director;**

10 **[(6) consistent with priorities ap-**
11 **proved by the President, assist the Na-**
12 **tional Intelligence Director in estab-**
13 **lishing requirements for the intelligence**
14 **community for the collection of terrorism**
15 **information; and**

16 **[(7) perform such other duties as the**
17 **National Intelligence Director may pre-**
18 **scribe or are prescribed by law.**

19 **[(g) LIMITATION.—The Director of the Na-**
20 **tional counterterrorism Center may not di-**
21 **rect the execution of counterterrorism oper-**
22 **ations.**

23 **[(h) RESOLUTION OF DISPUTES.—The Na-**
24 **tional Intelligence Director shall resolve dis-**
25 **agreements between the National counter-**

1 terrorism Center and the head of a depart-
2 ment, agency, or element of the United States
3 Government on designations, assignments,
4 plans, or responsibilities. The head of such a
5 department, agency, or element may appeal
6 the resolution of the disagreement by the Na-
7 tional Intelligence Director to the President.

8 **[(i) DIRECTORATE OF INTELLIGENCE.—The**
9 **Director of the National counterterrorism**
10 **Center shall establish and maintain within**
11 **the National counterterrorism Center a Direc-**
12 **torate of Intelligence which shall have pri-**
13 **mary responsibility within the United States**
14 **Government for analysis of terrorism and ter-**
15 **rorist organizations (except for purely domes-**
16 **tic terrorism and domestic terrorist organiza-**
17 **tions) from all sources of intelligence, wheth-**
18 **er collected inside or outside the United**
19 **States.**

20 **[(j) DIRECTORATE OF STRATEGIC PLAN-**
21 **NING.—The Director of the National counter-**
22 **terrorism Center shall establish and maintain**
23 **within the National counterterrorism Center**
24 **a Directorate of Strategic Planning which**
25 **shall provide strategic guidance and plans for**

1 **counterterrorism operations conducted by**
2 **the United States Government.”.**

3 **[(b) CLERICAL AMENDMENT.—The table of**
4 **sections for the National Security Act of 1947**
5 **is amended by inserting after the item relat-**
6 **ing to section 118 the following new item:**

[“Sec. 119. National counterterrorism Center.”.

7 **[SEC. 1022. CIVIL LIBERTIES PROTECTION OFFICER.**

8 **[(a) CIVIL LIBERTIES PROTECTION OFFI-**
9 **CER.—(1) Within the Office of the National In-**
10 **telligence Director, there is a Civil Liberties**
11 **Protection Officer who shall be appointed by**
12 **the National Intelligence Director.**

13 **[(2) The Civil Liberties Protection Officer**
14 **shall report directly to the National Intel-**
15 **ligence Director.**

16 **[(b) DUTIES.—The Civil Liberties Protec-**
17 **tion Officer shall—**

18 **[(1) ensure that the protection of civil**
19 **liberties and privacy is appropriately in-**
20 **corporated in the policies and procedures**
21 **developed for and implemented by the**
22 **Office of the National Intelligence Direc-**
23 **tor and the elements of the intelligence**
24 **community within the National Intel-**
25 **ligence Program;**

1 **[(2) oversee compliance by the Office**
2 **and the National Intelligence Director**
3 **with requirements under the Constitu-**
4 **tion and all laws, regulations, Executive**
5 **orders, and implementing guidelines re-**
6 **lating to civil liberties and privacy;**

7 **[(3) review and assess complaints and**
8 **other information indicating possible**
9 **abuses of civil liberties and privacy in**
10 **the administration of the programs and**
11 **operations of the Office and the National**
12 **Intelligence Director and, as appropriate,**
13 **investigate any such complaint or infor-**
14 **mation;**

15 **[(4) ensure that the use of tech-**
16 **nologies sustain, and do not erode, pri-**
17 **vacv protections relating to the use, col-**
18 **lection, and disclosure of personal infor-**
19 **mation;**

20 **[(5) ensure that personal information**
21 **contained in a system of records subject**
22 **to section 552a of title 5, United States**
23 **Code (popularly referred to as the ‘Pri-**
24 **vacv Act’), is handled in full compliance**

1 **with fair information practices as set out**
2 **in that section;**

3 **[(6) conduct privacy impact assess-**
4 **ments when appropriate or as required**
5 **by law; and**

6 **[(7) perform such other duties as may**
7 **be prescribed by the National Intel-**
8 **ligence Director or specified by law.**

9 **[(c) USE OF AGENCY INSPECTORS GEN-**
10 **ERAL.—When appropriate, the Civil Liberties**
11 **Protection Officer may refer complaints to**
12 **the Office of Inspector General having re-**
13 **sponsibility for the affected element of the de-**
14 **partment or agency of the intelligence com-**
15 **munity to conduct an investigation under**
16 **paragraph (3) of subsection (b).**

17 **[Subtitle C—Joint Intelligence**
18 **Community Council**

19 **[SEC. 1031. JOINT INTELLIGENCE COMMUNITY COUNCIL.**

20 **[(a) ESTABLISHMENT.—There is hereby es-**
21 **tablished a Joint Intelligence Community**
22 **Council.**

23 **[(b) FUNCTIONS.—(1) The Joint Intel-**
24 **ligence Community Council shall provide ad-**

1 vice to the National Intelligence Director as
2 appropriate.

3 **[(2) The National Intelligence Director**
4 **shall consult with the Joint Intelligence Com-**
5 **munity Council in developing guidance for**
6 **the development of the annual National Intel-**
7 **ligence Program budget.**

8 **[(c) MEMBERSHIP.—The Joint Intelligence**
9 **Community Council shall consist of the fol-**
10 **lowing:**

11 **[(1) The National Intelligence Direc-**
12 **tor, who shall chair the Council.**

13 **[(2) The Secretary of State.**

14 **[(3) The Secretary of the Treasury.**

15 **[(4) The Secretary of Defense.**

16 **[(5) The Attorney General.**

17 **[(6) The Secretary of Energy.**

18 **[(7) The Secretary of Homeland Secu-**
19 **rity.**

20 **[(8) Such other officials of the execu-**
21 **tive branch as the President may des-**
22 **ignate.**

**[Subtitle D—Improvement of
Human Intelligence (HUMINT)]**

**[SEC. 1041. HUMAN INTELLIGENCE AS AN INCREASINGLY
CRITICAL COMPONENT OF THE INTEL-
LIGENCE COMMUNITY.]**

[It is a sense of Congress that—

**[(1) the human intelligence officers of
the intelligence community have per-
formed admirably and honorably in the
face of great personal dangers;**

**[(2) during an extended period of un-
precedented investment and improve-
ments in technical collection means, the
human intelligence capabilities of the
United States have not received the nec-
essary and commensurate priorities;**

**[(3) human intelligence is becoming
an increasingly important capability to
provide information on the asymmetric
threats to the national security of the
United States;**

**[(4) the continued development and
improvement of a robust and empowered
and flexible human intelligence work
force is critical to identifying, under-**

1 **standing, and countering the plans and**
2 **intentions of the adversaries of the**
3 **United States; and**

4 **[(5) an increased emphasis on, and**
5 **resources applied to, enhancing the**
6 **depth and breadth of human intelligence**
7 **capabilities of the United States intel-**
8 **ligence community must be among the**
9 **top priorities of the National Intelligence**
10 **Director.**

11 **[SEC. 1042. IMPROVEMENT OF HUMAN INTELLIGENCE CA-**
12 **PACITY.**

13 **[Not later than 6 months after the date of**
14 **the enactment of this Act, the National Intel-**
15 **ligence Director shall submit to Congress a re-**
16 **port on existing human intelligence**
17 **(HUMINT) capacity which shall include a**
18 **plan to implement changes, as necessary, to**
19 **accelerate improvements to, and increase the**
20 **capacity of, HUMINT across the intelligence**
21 **community.**

1 **[Subtitle E—Improvement of Edu-**
2 **cation for the Intelligence Com-**
3 **munity**

4 **[SEC. 1051. MODIFICATION OF OBLIGATED SERVICE RE-**
5 **QUIREMENTS UNDER NATIONAL SECURITY**
6 **EDUCATION PROGRAM.**

7 **[(a) IN GENERAL.—(1) Subsection (b)(2) of**
8 **section 802 of the David L. Boren National Se-**
9 **curity Education Act of 1991 (50 U.S.C. 1902)**
10 **is amended to read as follows:**

11 **[(2) will meet the requirements for**
12 **obligated service described in subsection**
13 **(j); and”.**

14 **[(2) Such section is further amended by**
15 **adding at the end the following new sub-**
16 **section:**

17 **[(j) REQUIREMENTS FOR OBLIGATED SERV-**
18 **ICE IN THE GOVERNMENT.—(1) Each recipient of**
19 **a scholarship or a fellowship under the pro-**
20 **gram shall work in a specified national secu-**
21 **rity position. In this subsection, the term**
22 **‘specified national security position’ means a**
23 **position of a department or agency of the**
24 **United States that the Secretary certifies is**
25 **appropriate to use the unique language and**

1 region expertise acquired by the recipient
2 pursuant to the study for which scholarship
3 or fellowship assistance (as the case may be)
4 was provided under the program.

5 [“(2) Each such recipient shall commence
6 work in a specified national security position
7 as soon as practicable but in no case later
8 than two years after the completion by the re-
9 cipient of the study for which scholarship or
10 fellowship assistance (as the case may be) was
11 provided under the program.

12 [“(3) Each such recipient shall work in a
13 specified national security position for a pe-
14 riod specified by the Secretary, which period
15 shall include—

16 [“(A) in the case of a recipient of a
17 scholarship, one year of service for each
18 year, or portion thereof, for which such
19 scholarship assistance was provided, and

20 [“(B) in the case of a recipient of a
21 fellowship, not less than one nor more
22 than three years for each year, or portion
23 thereof, for which such fellowship assist-
24 ance was provided.

1 **[(4) Recipients shall seek specified na-**
2 **tional security positions as follows:**

3 **[(A) In the Department of Defense or**
4 **in any element of the intelligence com-**
5 **munity.**

6 **[(B) In the Department of State or in**
7 **the Department of Homeland Security, if**
8 **the recipient demonstrates to the Sec-**
9 **retary that no position is available in the**
10 **Department of Defense or in any element**
11 **of the intelligence community.**

12 **[(C) In any other Federal depart-**
13 **ment or agency not referred to in sub-**
14 **paragraphs (A) and (B), if the recipient**
15 **demonstrates to the Secretary that no po-**
16 **sition is available in a Federal depart-**
17 **ment or agency specified in such para-**
18 **graphs.”.**

19 **[(b) REGULATIONS.—The Secretary of De-**
20 **fense shall prescribe regulations to carry out**
21 **subsection (j) of section 802 of the David L.**
22 **Boren National Security Education Act of**
23 **1991, as added by subsection (a). In pre-**
24 **scribing such regulations, the Secretary shall**
25 **establish standards that recipients of scholar-**

1 ship and fellowship assistance under the pro-
2 gram under section 802 of the David L. Boren
3 National Security Education Act of 1991 are
4 required to demonstrate in order to satisfy
5 the requirement of a good faith effort to gain
6 employment as required under such sub-
7 section.

8 [(c) APPLICABILITY.—(1) The amendments
9 made by subsection (a) shall apply with re-
10 spect to service agreements entered into
11 under the David L. Boren National Security
12 Education Act of 1991 on or after the date of
13 the enactment of this Act.

14 [(2) The amendments made by subsection
15 (a) shall not affect the force, validity, or terms
16 of any service agreement entered into under
17 the David L. Boren National Security Edu-
18 cation Act of 1991 before the date of the enact-
19 ment of this Act that is in force as of that date.

20 [SEC. 1052. IMPROVEMENTS TO THE NATIONAL FLAGSHIP
21 LANGUAGE INITIATIVE.

22 [(a) INCREASE IN ANNUAL AUTHORIZATION
23 OF APPROPRIATIONS.—(1) Title VIII of the Intel-
24 ligence Authorization Act for Fiscal Year 1992
25 (Public Law 102-183; 105 Stat. 1271), as

1 amended by section 311(c) of the Intelligence
2 Authorization Act for Fiscal Year 1994 (Public
3 Law 103–178; 107 Stat. 2037) and by section
4 333(b) of the Intelligence Authorization Act
5 for Fiscal Year 2003 (Public Law 107–306; 116
6 Stat. 2397), is amended in subsection (a) of
7 section 811 by striking “there is authorized to
8 be appropriated to the Secretary for each fis-
9 cal year, beginning with fiscal year 2003,
10 \$10,000,000,” and inserting “there is author-
11 ized to be appropriated to the Secretary for
12 each of fiscal years 2003 and 2004, \$10,000,000,
13 and for fiscal year 2005 and each subsequent
14 fiscal year, \$12,000,000,”.

15 [(2) Subsection (b) of such section is
16 amended by inserting “for fiscal years 2003
17 and 2004 only” after “authorization of appro-
18 priations under subsection (a)”.

19 [(b) REQUIREMENT FOR EMPLOYMENT
20 AGREEMENTS.—(1) Section 802(i) of the David
21 L. Boren National Security Education Act of
22 1991 (50 U.S.C. 1902(i)) is amended by adding
23 at the end the following new paragraph:

24 [“(5)(A) In the case of an undergraduate
25 or graduate student that participates in train-

1 ing in programs under paragraph (1), the stu-
2 dent shall enter into an agreement described
3 in subsection (b), other than such a student
4 who has entered into such an agreement pur-
5 suant to subparagraph (A)(ii) or (B)(ii) of sec-
6 tion 802(a)(1).

7 **[(B) In the case of an employee of an**
8 **agency or department of the Federal Govern-**
9 **ment that participates in training in pro-**
10 **grams under paragraph (1), the employee**
11 **shall agree in writing—**

12 **[(i) to continue in the service of the**
13 **agency or department of the Federal Gov-**
14 **ernment employing the employee for the**
15 **period of such training;**

16 **[(ii) to continue in the service of**
17 **such agency or department employing**
18 **the employee following completion of**
19 **such training for a period of two years**
20 **for each year, or part of the year, of such**
21 **training;**

22 **[(iii) to reimburse the United States**
23 **for the total cost of such training (exclud-**
24 **ing the employee's pay and allowances)**
25 **provided to the employee if, before the**

1 completion by the employee of the train-
2 ing, the employment of the employee by
3 the agency or department is terminated
4 due to misconduct by the employee or by
5 the employee voluntarily; and

6 [“(iv) to reimburse the United States
7 if, after completing such training, the em-
8 ployment of the employee by the agency
9 or department is terminated either by the
10 agency or department due to misconduct
11 by the employee or by the employee vol-
12 untarily, before the completion by the
13 employee of the period of service re-
14 quired in clause (ii), in an amount that
15 bears the same ratio to the total cost of
16 the training (excluding the employee’s
17 pay and allowances) provided to the em-
18 ployee as the unserved portion of such
19 period of service bears to the total period
20 of service under clause (ii).

21 [“(C) Subject to subparagraph (D), the ob-
22 ligation to reimburse the United States under
23 an agreement under subparagraph (A) is for
24 all purposes a debt owing the United States.

1 **[(D) The head of an element of the intel-**
2 **ligence community may release an employee,**
3 **in whole or in part, from the obligation to re-**
4 **imburse the United States under an agree-**
5 **ment under subparagraph (A) when, in the**
6 **discretion of the head of the element, the**
7 **head of the element determines that equity or**
8 **the interests of the United States so require.”.**

9 **[(2) The amendment made by paragraph**
10 **(1) shall apply to training that begins on or**
11 **after the date that is 90 days after the date of**
12 **the enactment of this Act.**

13 **[(c) INCREASE IN THE NUMBER OF PARTICI-**
14 **PATING EDUCATIONAL INSTITUTIONS.—The Sec-**
15 **retary of Defense shall take such steps as the**
16 **Secretary determines will increase the num-**
17 **ber of qualified educational institutions that**
18 **receive grants under the National Flagship**
19 **Language Initiative to establish, operate, or**
20 **improve activities designed to train students**
21 **in programs in a range of disciplines to**
22 **achieve advanced levels of proficiency in**
23 **those foreign languages that the Secretary**
24 **identifies as being the most critical in the in-**

1 **terests of the national security of the United**
2 **States.**

3 **[(d) CLARIFICATION OF AUTHORITY TO SUP-**
4 **PORT STUDIES ABROAD.—Educational institu-**
5 **tions that receive grants under the National**
6 **Flagship Language Initiative may support**
7 **students who pursue total immersion foreign**
8 **language studies overseas of foreign lan-**
9 **guages that are critical to the national secu-**
10 **rity of the United States.**

11 **[SEC. 1053. ESTABLISHMENT OF SCHOLARSHIP PROGRAM**
12 **FOR ENGLISH LANGUAGE STUDIES FOR HER-**
13 **ITAGE COMMUNITY CITIZENS OF THE UNITED**
14 **STATES WITHIN THE NATIONAL SECURITY**
15 **EDUCATION PROGRAM.**

16 **[(a) SCHOLARSHIP PROGRAM FOR ENGLISH**
17 **LANGUAGE STUDIES FOR HERITAGE COMMUNITY**
18 **CITIZENS OF THE UNITED STATES.—(1) Sub-**
19 **section (a)(1) of section 802 of the David L.**
20 **Boren National Security Education Act of**
21 **1991 (50 U.S.C. 1902) is amended—**

22 **[(A) by striking “and” at the end of**
23 **subparagraph (C);**

1 **[(B) by striking the period at the end**
2 **of subparagraph (D) and inserting “;**
3 **and”]; and**

4 **[(C) by adding at the end the fol-**
5 **lowing new subparagraph:**

6 **[“(E) awarding scholarships to**
7 **students who—**

8 **[“(i) are United States citizens**
9 **who—**

10 **[“(I) are native speakers**
11 **(commonly referred to as her-**
12 **itage community residents) of**
13 **a foreign language that is**
14 **identified as critical to the na-**
15 **tional security interests of the**
16 **United States who should be**
17 **actively recruited for employ-**
18 **ment by Federal security**
19 **agencies with a need for lin-**
20 **guists; and**

21 **[“(II) are not proficient at**
22 **a professional level in the**
23 **English language with respect**
24 **to reading, writing, and inter-**
25 **personal skills required to**

1 **carry out the national secu-**
2 **rity interests of the United**
3 **States, as determined by the**
4 **Secretary,**

5 **to enable such students to pursue**
6 **English language studies at an in-**
7 **stitution of higher education of**
8 **the United States to attain pro-**
9 **ficiency in those skills; and**

10 **[(“ii) enter into an agreement**
11 **to work in a national security po-**
12 **sition or work in the field of edu-**
13 **cation in the area of study for**
14 **which the scholarship was award-**
15 **ed in a similar manner (as deter-**
16 **mined by the Secretary) as agree-**
17 **ments entered into pursuant to**
18 **subsection (b)(2)(A).”.**

19 **[(2) The matter following subsection (a)(2)**
20 **of such section is amended—**

21 **[(A) in the first sentence, by inserting**
22 **“or for the scholarship program under**
23 **paragraph (1)(E)” after “under paragraph**
24 **(1)(D) for the National Flagship Language**

1 Initiative described in subsection (i”;
2 and

3 [(B) by adding at the end the fol-
4 lowing: “For the authorization of appro-
5 priations for the scholarship program
6 under paragraph (1)(E), see section 812.”.

7 [(3) Section 803(d)(4)(E) of such Act (50
8 U.S.C. 1903(d)(4)(E)) is amended by inserting
9 before the period the following: “and section
10 802(a)(1)(E) (relating to scholarship programs
11 for advanced English language studies by her-
12 itage community residents)”.

13 [(b) FUNDING.—The David L. Boren Na-
14 tional Security Education Act of 1991 (50
15 U.S.C. 1901 et seq.) is amended by adding at
16 the end the following new section:

17 [“SEC. 812. FUNDING FOR SCHOLARSHIP PROGRAM FOR
18 CERTAIN HERITAGE COMMUNITY RESIDENTS.

19 [“There is authorized to be appropriated
20 to the Secretary for each fiscal year, begin-
21 ning with fiscal year 2005, \$4,000,000, to carry
22 out the scholarship programs for English lan-
23 guage studies by certain heritage community
24 residents under section 802(a)(1)(E).

1 [SEC. 1054. SENSE OF CONGRESS WITH RESPECT TO LAN-
2 GUAGE AND EDUCATION FOR THE INTEL-
3 LIGENCE COMMUNITY; REPORTS.

4 [(a) SENSE OF CONGRESS.—It is the sense of
5 Congress that there should be within the Of-
6 fice of the National Intelligence Director a
7 senior official responsible to assist the Na-
8 tional Intelligence Director in carrying out
9 the Director's responsibilities for establishing
10 policies and procedure for foreign language
11 education and training of the intelligence
12 community. The duties of such official should
13 include the following:

14 [(1) Overseeing and coordinating re-
15 quirements for foreign language edu-
16 cation and training of the intelligence
17 community.

18 [(2) Establishing policy, standards,
19 and priorities relating to such require-
20 ments.

21 [(3) Identifying languages that are
22 critical to the capability of the intel-
23 ligence community to carry out national
24 security activities of the United States.

25 [(4) Monitoring the allocation of re-
26 sources for foreign language education

1 and training in order to ensure the re-
2 quirements of the intelligence community
3 with respect to foreign language pro-
4 ficiency are met.

5 **[(b) REPORTS.—**Not later than one year
6 after the date of the enactment of this Act, the
7 National Intelligence Director shall submit to
8 Congress the following reports:

9 **[(1) A report that identifies—**

10 **[(A) skills and processes involved**
11 **in learning a foreign language; and**

12 **[(B) characteristics and teaching**
13 **techniques that are most effective in**
14 **teaching foreign languages.**

15 **[(2)(A) A report that identifies foreign**
16 **language heritage communities, particu-**
17 **larly such communities that include**
18 **speakers of languages that are critical to**
19 **the national security of the United States.**

20 **[(B) For purposes of subparagraph**
21 **(A), the term “foreign language heritage**
22 **community” means a community of resi-**
23 **dents or citizens of the United States—**

1 **[(i) who are native speakers of, or**
2 **who have fluency in, a foreign lan-**
3 **guage; and**

4 **[(ii) who should be actively re-**
5 **cruited for employment by Federal**
6 **security agencies with a need for lin-**
7 **guists.**

8 **[(3) A report on—**

9 **[(A) the estimated cost of estab-**
10 **lishing a program under which the**
11 **heads of elements of the intelligence**
12 **community agree to repay employees**
13 **of the intelligence community for any**
14 **student loan taken out by that em-**
15 **ployee for the study of foreign lan-**
16 **guages critical for the national secu-**
17 **rity of the United States; and**

18 **[(B) the effectiveness of such a**
19 **program in recruiting and retaining**
20 **highly qualified personnel in the in-**
21 **telligence community.**

22 **[SEC. 1055. ADVANCEMENT OF FOREIGN LANGUAGES CRIT-**
23 **ICAL TO THE INTELLIGENCE COMMUNITY.**

24 **[(a) IN GENERAL.—Title X of the National**
25 **Security Act of 1947 (50 U.S.C.) is amended—**

1 **[(1) by inserting before section 1001**
2 **(50 U.S.C. 441g) the following:**

3 **["Subtitle A—Science and**
4 **Technology”;**

5 **and**

6 **[(2) by adding at the end the fol-**
7 **lowing new subtitles:**

8 **["Subtitle B—Foreign Languages**
9 **Program**

10 **["PROGRAM ON ADVANCEMENT OF FOREIGN LAN-**
11 **GUAGES CRITICAL TO THE INTELLIGENCE**
12 **COMMUNITY**

13 **["SEC. 1011. (a) ESTABLISHMENT OF PRO-**
14 **GRAM.—The Secretary of Defense and the Na-**
15 **tional Intelligence Director may jointly estab-**
16 **lish a program to advance foreign languages**
17 **skills in languages that are critical to the ca-**
18 **pability of the intelligence community to**
19 **carry out national security activities of the**
20 **United States (hereinafter in this subtitle re-**
21 **ferred to as the ‘Foreign Languages Pro-**
22 **gram’).**

23 **["(b) IDENTIFICATION OF REQUISITE AC-**
24 **TIONS.—In order to carry out the Foreign Lan-**
25 **guages Program, the Secretary of Defense and**

1 the National Intelligence Director shall joint-
2 ly determine actions required to improve the
3 education of personnel in the intelligence
4 community in foreign languages that are crit-
5 ical to the capability of the intelligence com-
6 munity to carry out national security activi-
7 ties of the United States to meet the long-term
8 intelligence needs of the United States.

9 **[“EDUCATION PARTNERSHIPS**

10 **[“SEC. 1012. (a) IN GENERAL.—In carrying**
11 **out the Foreign Languages Program, the head**
12 **of a department or agency containing an ele-**
13 **ment of an intelligence community entity may**
14 **enter into one or more education partnership**
15 **agreements with educational institutions in**
16 **the United States in order to encourage and**
17 **enhance the study of foreign languages that**
18 **are critical to the capability of the intel-**
19 **ligence community to carry out national secu-**
20 **rity activities of the United States in edu-**
21 **cational institutions.**

22 **[“(b) ASSISTANCE PROVIDED UNDER EDU-**
23 **CATIONAL PARTNERSHIP AGREEMENTS.—Under**
24 **an educational partnership agreement en-**
25 **tered into with an educational institution**
26 **pursuant to this section, the head of an ele-**

1 ment of an intelligence community entity may
2 provide the following assistance to the edu-
3 cational institution:

4 **[(1) The loan of equipment and in-**
5 **structional materials of the element of**
6 **the intelligence community entity to the**
7 **educational institution for any purpose**
8 **and duration that the head determines to**
9 **be appropriate.**

10 **[(2) Notwithstanding any other pro-**
11 **vision of law relating to transfers of sur-**
12 **plus property, the transfer to the edu-**
13 **cational institution of any computer**
14 **equipment, or other equipment, that is—**

15 **[(A) commonly used by edu-**
16 **cational institutions;**

17 **[(B) surplus to the needs of the**
18 **entity; and**

19 **[(C) determined by the head of**
20 **the element to be appropriate for**
21 **support of such agreement.**

22 **[(3) The provision of dedicated per-**
23 **sonnel to the educational institution—**

24 **[(A) to teach courses in foreign**
25 **languages that are critical to the ca-**

1 pability of the intelligence commu-
2 nity to carry out national security ac-
3 tivities of the United States; or

4 [“(B) to assist in the development
5 of such courses and materials for the
6 institution.

7 [“(4) The involvement of faculty and
8 students of the educational institution in
9 research projects of the element of the in-
10 telligence community entity.

11 [“(5) Cooperation with the edu-
12 cational institution in developing a pro-
13 gram under which students receive aca-
14 demic credit at the educational institu-
15 tion for work on research projects of the
16 element of the intelligence community
17 entity.

18 [“(6) The provision of academic and
19 career advice and assistance to students
20 of the educational institution.

21 [“(7) The provision of cash awards
22 and other items that the head of the ele-
23 ment of the intelligence community enti-
24 ty determines to be appropriate.

1 **["VOLUNTARY SERVICES**

2 **["SEC. 1013. (a) AUTHORITY TO ACCEPT**
3 **SERVICES.—Notwithstanding section 1342 of**
4 **title 31, United States Code, and subject to**
5 **subsection (b), the Foreign Languages Pro-**
6 **gram under section 1011 shall include author-**
7 **ity for the head of an element of an intel-**
8 **ligence community entity to accept from any**
9 **individual who is dedicated personnel (as de-**
10 **fin ed in section 1016(3)) voluntary services in**
11 **support of the activities authorized by this**
12 **subtitle.**

13 **["(b) REQUIREMENTS AND LIMITATIONS.—(1)**
14 **In accepting voluntary services from an indi-**
15 **vidual under subsection (a), the head of the**
16 **element shall—**

17 **["(A) supervise the individual to the**
18 **same extent as the head of the element**
19 **would supervise a compensated employee**
20 **of that element providing similar serv-**
21 **ices; and**

22 **["(B) ensure that the individual is li-**
23 **censed, privileged, has appropriate edu-**
24 **cational or experiential credentials, or is**

1 otherwise qualified under applicable law
2 or regulations to provide such services.

3 **[(2) In accepting voluntary services from**
4 **an individual under subsection (a), the head**
5 **of an element of the intelligence community**
6 **entity may not—**

7 **[(A) place the individual in a policy-**
8 **making position, or other position per-**
9 **forming inherently government func-**
10 **tions; or**

11 **[(B) compensate the individual for**
12 **the provision of such services.**

13 **[(c) AUTHORITY TO RECRUIT AND TRAIN IN-**
14 **DIVIDUALS PROVIDING SERVICES.—The head of**
15 **an element of an intelligence community enti-**
16 **ty may recruit and train individuals to pro-**
17 **vide voluntary services accepted under sub-**
18 **section (a).**

19 **[(d) STATUS OF INDIVIDUALS PROVIDING**
20 **SERVICES.—(1) Subject to paragraph (2), while**
21 **providing voluntary services accepted under**
22 **subsection (a) or receiving training under**
23 **subsection (c), an individual shall be consid-**
24 **ered to be an employee of the Federal Govern-**

1 ment only for purposes of the following provi-
2 sions of law:

3 **[(“A) Section 552a of title 5, United**
4 **States Code (relating to maintenance of**
5 **records on individuals).**

6 **[(“B) Chapter 11 of title 18, United**
7 **States Code (relating to conflicts of inter-**
8 **est).**

9 **[(“2)(A) With respect to voluntary services**
10 **accepted under paragraph (1) provided by an**
11 **individual that are within the scope of the**
12 **services so accepted, the individual is deemed**
13 **to be a volunteer of a governmental entity or**
14 **nonprofit institution for purposes of the Vol-**
15 **unteer Protection Act of 1997 (42 U.S.C. 14501**
16 **et seq.).**

17 **[(“B) In the case of any claim against such**
18 **an individual with respect to the provision of**
19 **such services, section 4(d) of such Act (42**
20 **U.S.C. 14503(d)) shall not apply.**

21 **[(“3) Acceptance of voluntary services**
22 **under this section shall have no bearing on**
23 **the issuance or renewal of a security clear-**
24 **ance.**

1 **[(e) REIMBURSEMENT OF INCIDENTAL EX-**
2 **PENSES.—(1) The head of an element of the in-**
3 **telligence community entity may reimburse**
4 **an individual for incidental expenses in-**
5 **curred by the individual in providing vol-**
6 **untary services accepted under subsection**
7 **(a). The head of an element of the intelligence**
8 **community entity shall determine which ex-**
9 **penses are eligible for reimbursement under**
10 **this subsection.**

11 **[(2) Reimbursement under paragraph (1)**
12 **may be made from appropriated or non-**
13 **appropriated funds.**

14 **[(f) AUTHORITY TO INSTALL EQUIPMENT.—**
15 **(1) The head of an element of the intelligence**
16 **community may install telephone lines and**
17 **any necessary telecommunication equipment**
18 **in the private residences of individuals who**
19 **provide voluntary services accepted under**
20 **subsection (a).**

21 **[(2) The head of an element of the intel-**
22 **ligence community may pay the charges in-**
23 **curred for the use of equipment installed**
24 **under paragraph (1) for authorized purposes.**

1 **[(3) Notwithstanding section 1348 of title**
2 **31, United States Code, the head of an element**
3 **of the intelligence community entity may use**
4 **appropriated funds or nonappropriated funds**
5 **of the element in carrying out this subsection.**

6 **["REGULATIONS**

7 **["SEC. 1014. (a) IN GENERAL.—The Sec-**
8 **retary of Defense and the National Intel-**
9 **ligence Director jointly shall promulgate reg-**
10 **ulations necessary to carry out the Foreign**
11 **Languages Program authorized under this**
12 **subtitle.**

13 **["(b) ELEMENTS OF THE INTELLIGENCE COM-**
14 **MUNITY.—Each head of an element of an intel-**
15 **ligence community entity shall prescribe reg-**
16 **ulations to carry out sections 1012 and 1013**
17 **with respect to that element including the fol-**
18 **lowing:**

19 **["(1) Procedures to be utilized for the**
20 **acceptance of voluntary services under**
21 **section 1013.**

22 **["(2) Procedures and requirements**
23 **relating to the installation of equipment**
24 **under section 1013(g).**

25 **["DEFINITIONS**

26 **["SEC. 1015. In this subtitle:**

1 **[(1) The term ‘intelligence commu-**
2 **nity entity’ means an agency, office, bu-**
3 **reau, or element referred to in subpara-**
4 **graphs (B) through (K) of section 3(4).**

5 **[(2) The term ‘educational institu-**
6 **tion’ means—**

7 **[(A) a local educational agency**
8 **(as that term is defined in section**
9 **9101(26) of the Elementary and Sec-**
10 **ondary Education Act of 1965 (20**
11 **U.S.C. 7801(26))),**

12 **[(B) an institution of higher edu-**
13 **cation (as defined in section 102 of**
14 **the Higher Education Act of 1965 (20**
15 **U.S.C. 1002) other than institutions**
16 **referred to in subsection (a)(1)(C) of**
17 **such section), or**

18 **[(C) any other nonprofit institu-**
19 **tion that provides instruction of for-**
20 **oreign languages in languages that are**
21 **critical to the capability of the intel-**
22 **ligence community to carry out na-**
23 **tional security activities of the United**
24 **States.**

1 **[(3) The term ‘dedicated personnel’**
2 **means employees of the intelligence com-**
3 **munity and private citizens (including**
4 **former civilian employees of the Federal**
5 **Government who have been voluntarily**
6 **separated, and members of the United**
7 **States Armed Forces who have been hon-**
8 **orably discharged or generally dis-**
9 **charged under honorable circumstances,**
10 **and rehired on a voluntary basis specifi-**
11 **cally to perform the activities authorized**
12 **under this subtitle).**

13 **["Subtitle C—Additional Education**
14 **Provisions**

15 **["ASSIGNMENT OF INTELLIGENCE COMMUNITY**
16 **PERSONNEL AS LANGUAGE STUDENTS**

17 **["SEC. 1021. (a) IN GENERAL.—(1) The Na-**
18 **tional Intelligence Director, acting through**
19 **the heads of the elements of the intelligence**
20 **community, may provide for the assignment**
21 **of military and civilian personnel described**
22 **in paragraph (2) as students at accredited**
23 **professional, technical, or other institutions**
24 **of higher education for training at the grad-**
25 **uate or undergraduate level in foreign lan-**

1 guages required for the conduct of duties and
2 responsibilities of such positions.

3 **[(“(2) Personnel referred to in paragraph**
4 **(1) are personnel of the elements of the intel-**
5 **ligence community who serve in analysts po-**
6 **sitions in such elements and who require for-**
7 **eign language expertise required for the con-**
8 **duct of duties and responsibilities of such po-**
9 **sitions.**

10 **[(“(b) AUTHORITY FOR REIMBURSEMENT OF**
11 **COSTS OF TUITION AND TRAINING.—(1) The Di-**
12 **rector may reimburse an employee assigned**
13 **under subsection (a) for the total cost of the**
14 **training described in subsection (a), including**
15 **costs of educational and supplementary read-**
16 **ing materials.**

17 **[(“(2) The authority under paragraph (1)**
18 **shall apply to employees who are assigned on**
19 **a full-time or part-time basis.**

20 **[(“(3) Reimbursement under paragraph (1)**
21 **may be made from appropriated or non-**
22 **appropriated funds.**

23 **[(“(c) RELATIONSHIP TO COMPENSATION AS AN**
24 **ANALYST.—Reimbursement under this section**
25 **to an employee who is an analyst is in addi-**

1 tion to any benefits, allowances, travels, or
 2 other compensation the employee is entitled
 3 to by reason of serving in such an analyst po-
 4 sition.”.

5 **[(b) CLERICAL AMENDMENT.—The table of**
 6 **contents for the National Security Act of 1947**
 7 **is amended by striking the item relating to**
 8 **section 1001 and inserting the following new**
 9 **items:**

["Subtitle A—Science and Technology

**["Sec. 1001. Scholarships and work-study for pursuit of grad-
 uate degrees in science and technology.**

["Subtitle B—Foreign Languages Program

**["Sec. 1011. Program on advancement of foreign languages
 critical to the intelligence community.**

["Sec. 1012. Education partnerships.

["Sec. 1013. Voluntary services.

["Sec. 1014. Regulations.

["Sec. 1015. Definitions.

["Subtitle C—Additional Education Provisions

**["Sec. 1021. Assignment of intelligence community personnel
 as language students.”.**

10 **[SEC. 1056. PILOT PROJECT FOR CIVILIAN LINGUIST RE-**
 11 **SERVE CORPS.**

12 **[(a) PILOT PROJECT.—The National Intel-**
 13 **ligence Director shall conduct a pilot project**
 14 **to establish a Civilian Linguist Reserve Corps**
 15 **comprised of United States citizens with ad-**
 16 **vanced levels of proficiency in foreign lan-**
 17 **guages who would be available upon a call of**

1 the President to perform such service or du-
2 ties with respect to such foreign languages in
3 the Federal Government as the President may
4 specify.

5 [(b) CONDUCT OF PROJECT.—Taking into
6 account the findings and recommendations
7 contained in the report required under sec-
8 tion 325 of the Intelligence Authorization Act
9 for Fiscal Year 2003 (Public Law 107–306; 116
10 Stat. 2393), in conducting the pilot project
11 under subsection (a) the National Intelligence
12 Director shall—

13 [(1) identify several foreign lan-
14 guages that are critical for the national
15 security of the United States;

16 [(2) identify United States citizens
17 with advanced levels of proficiency in
18 those foreign languages who would be
19 available to perform the services and du-
20 ties referred to in subsection (a); and

21 [(3) implement a call for the perform-
22 ance of such services and duties.

23 [(c) DURATION OF PROJECT.—The pilot
24 project under subsection (a) shall be con-
25 ducted for a three-year period.

1 **[(d) AUTHORITY TO ENTER INTO CON-**
2 **TRACTS.—The National Intelligence Director**
3 **may enter into contracts with appropriate**
4 **agencies or entities to carry out the pilot**
5 **project under subsection (a).**

6 **[(e) REPORTS.—(1) The National Intel-**
7 **ligence Director shall submit to Congress an**
8 **initial and a final report on the pilot project**
9 **conducted under subsection (a).**

10 **[(2) Each report required under para-**
11 **graph (1) shall contain information on the op-**
12 **eration of the pilot project, the success of the**
13 **pilot project in carrying out the objectives of**
14 **the establishment of a Civilian Linguist Re-**
15 **serve Corps, and recommendations for the**
16 **continuation or expansion of the pilot project.**

17 **[(3) The final report shall be submitted**
18 **not later than 6 months after the completion**
19 **of the project.**

20 **[(f) AUTHORIZATION OF APPROPRIATIONS.—**
21 **There are authorized to be appropriated to**
22 **the National Intelligence Director such sums**
23 **as are necessary for each of fiscal years 2005,**
24 **2006, and 2007 in order to carry out the pilot**
25 **project under subsection (a).**

1 [SEC. 1057. CODIFICATION OF ESTABLISHMENT OF THE NA-
2 TIONAL VIRTUAL TRANSLATION CENTER.

3 [(a) IN GENERAL.—Title I of the National
4 Security Act of 1947 (50 U.S.C. 402 et seq.), as
5 amended by section 1021(a), is further amend-
6 ed by adding at the end the following new sec-
7 tion:

8 [“NATIONAL VIRTUAL TRANSLATION CENTER

9 [“SEC. 120. (a) IN GENERAL.—There is an
10 element of the intelligence community known
11 as the National Virtual Translation Center
12 under the direction of the National Intel-
13 ligence Director.

14 [(b) FUNCTION.—The National Virtual
15 Translation Center shall provide for timely
16 and accurate translations of foreign intel-
17 ligence for all other elements of the intel-
18 ligence community.

19 [(c) FACILITATING ACCESS TO TRANS-
20 LATIONS.—In order to minimize the need for a
21 central facility for the National Virtual Trans-
22 lation Center, the Center shall—

23 [(1) use state-of-the-art communica-
24 tions technology;

1 **[(2) integrate existing translation ca-**
2 **pabilities in the intelligence community;**
3 **and**

4 **[(3) use remote-connection capac-**
5 **ities.**

6 **[(d) USE OF SECURE FACILITIES.—Per-**
7 **sonnel of the National Virtual Translation**
8 **Center may carry out duties of the Center at**
9 **any location that—**

10 **[(1) has been certified as a secure fa-**
11 **cility by an agency or department of the**
12 **United States; and**

13 **[(2) the National Intelligence Direc-**
14 **tor determines to be appropriate for such**
15 **purpose.”.**

16 **[(b) CLERICAL AMENDMENT.—The table of**
17 **sections for that Act, as amended by section**
18 **1021(b), is further amended by inserting after**
19 **the item relating to section 119 the following**
20 **new item:**

["Sec. 120. National Virtual Translation Center.”.

21 **[SEC. 1058. REPORT ON RECRUITMENT AND RETENTION OF**
22 **QUALIFIED INSTRUCTORS OF THE DEFENSE**
23 **LANGUAGE INSTITUTE.**

24 **[(a) STUDY.—The Secretary of Defense**
25 **shall conduct a study on methods to improve**

1 the recruitment and retention of qualified for-
2 eign language instructors at the Foreign Lan-
3 guage Center of the Defense Language Insti-
4 tute. In conducting the study, the Secretary
5 shall consider, in the case of a foreign lan-
6 guage instructor who is an alien, to expedi-
7 tiously adjust the status of the alien from a
8 temporary status to that of an alien lawfully
9 admitted for permanent residence.

10 [(b) REPORT.—(1) Not later than one year
11 after the date of the enactment of this Act, the
12 Secretary of Defense shall submit to the ap-
13 propriate congressional committees a report
14 on the study conducted under subsection (a),
15 and shall include in that report recommenda-
16 tions for such changes in legislation and regu-
17 lation as the Secretary determines to be ap-
18 propriate.

19 [(2) DEFINITION.—In this subsection, the
20 term “appropriate congressional committees”
21 means the following:

22 [(A) The Select Committee on Intel-
23 ligence and the Committee on Armed
24 Services of the Senate.

1 **[(B) The Permanent Select Com-**
2 **mittee on Intelligence and the Committee**
3 **on Armed Services of the House of Rep-**
4 **resentatives.**

5 **[Subtitle F—Additional Improve-**
6 **ments of Intelligence Activities**

7 **[SEC. 1061. PERMANENT EXTENSION OF CENTRAL INTEL-**
8 **LIGENCE AGENCY VOLUNTARY SEPARATION**
9 **INCENTIVE PROGRAM.**

10 **[(a) EXTENSION OF PROGRAM.—Section 2 of**
11 **the Central Intelligence Agency Voluntary**
12 **Separation Pay Act (50 U.S.C. 403–4 note) is**
13 **amended—**

14 **[(1) by striking subsection (f); and**
15 **[(2) by redesignating subsections (g)**
16 **and (h) as subsections (f) and (g), respec-**
17 **tively.**

18 **[(b) TERMINATION OF FUNDS REMITTANCE**
19 **REQUIREMENT.—(1) Section 2 of such Act (50**
20 **U.S.C. 403–4 note) is further amended by strik-**
21 **ing subsection (i).**

22 **[(2) Section 4(a)(2)(B)(ii) of the Federal**
23 **Workforce Restructuring Act of 1994 (5 U.S.C.**
24 **8331 note) is amended by striking “, or section**
25 **2 of the Central Intelligence Agency Vol-**

1 untary Separation Pay Act (Public Law 103–
2 36; 107 Stat. 104)”).

3 [SEC. 1062. NATIONAL SECURITY AGENCY EMERGING
4 TECHNOLOGIES PANEL.

5 [The National Security Agency Act of 1959
6 (50 U.S.C. 402 note) is amended by adding at
7 the end the following new section:

8 [“SEC. 19. (a) There is established the Na-
9 tional Security Agency Emerging Tech-
10 nologies Panel. The panel is a standing panel
11 of the National Security Agency. The panel
12 shall be appointed by, and shall report di-
13 rectly to, the Director.

14 [“(b) The National Security Agency
15 Emerging Technologies Panel shall study and
16 assess, and periodically advise the Director
17 on, the research, development, and applica-
18 tion of existing and emerging science and
19 technology advances, advances on
20 encryption, and other topics.

21 [“(c) The Federal Advisory Committee Act
22 (5 U.S.C. App.) shall not apply with respect to
23 the National Security Agency Emerging Tech-
24 nologies Panel.”.

1 **[Subtitle G—Conforming and**
2 **Other Amendments**

3 **[SEC. 1071. CONFORMING AMENDMENTS RELATING TO**
4 **ROLES OF NATIONAL INTELLIGENCE DIREC-**
5 **TOR AND DIRECTOR OF THE CENTRAL INTEL-**
6 **LIGENCE AGENCY.**

7 **[(a) NATIONAL SECURITY ACT OF 1947.—(1)**
8 **The National Security Act of 1947 (50 U.S.C.**
9 **401 et seq.) is amended by striking “Director**
10 **of Central Intelligence” each place it appears**
11 **in the following provisions and inserting “Na-**
12 **tional Intelligence Director”:**

13 **[(A) Section 3(5)(B) (50 U.S.C.**
14 **401a(5)(B)).**

15 **[(B) Section 101(h)(2)(A) (50 U.S.C.**
16 **402(h)(2)(A)).**

17 **[(C) Section 101(h)(5) (50 U.S.C.**
18 **402(h)(5)).**

19 **[(D) Section 101(i)(2)(A) (50 U.S.C.**
20 **402(i)(2)(A)).**

21 **[(E) Section 101(j) (50 U.S.C. 402(j)).**

22 **[(F) Section 105(a) (50 U.S.C. 403–**
23 **5(a)).**

24 **[(G) Section 105(b)(6)(A) (50 U.S.C.**
25 **403–5(b)(6)(A)).**

1 **[(H) Section 105B(a)(1) (50 U.S.C. 403–**
2 **5b(a)(1)).**

3 **[(I) Section 105B(b) (50 U.S.C. 403–**
4 **5b(b)), the first place it appears.**

5 **[(J) Section 110(b) (50 U.S.C. 404e(b)).**

6 **[(K) Section 110(c) (50 U.S.C. 404e(c)).**

7 **[(L) Section 112(a)(1) (50 U.S.C.**
8 **404g(a)(1)).**

9 **[(M) Section 112(d)(1) (50 U.S.C.**
10 **404g(d)(1)).**

11 **[(N) Section 113(b)(2)(A) (50 U.S.C.**
12 **404h(b)(2)(A)).**

13 **[(O) Section 114(a)(1) (50 U.S.C.**
14 **404i(a)(1)).**

15 **[(P) Section 114(b)(1) (50 U.S.C.**
16 **404i(b)(1)).**

17 **[(Q) Section 115(a)(1) (50 U.S.C.**
18 **404j(a)(1)).**

19 **[(R) Section 115(b) (50 U.S.C. 404j(b)).**

20 **[(S) Section 115(c)(1)(B) (50 U.S.C.**
21 **404j(c)(1)(B)).**

22 **[(T) Section 116(a) (50 U.S.C. 404k(a)).**

23 **[(U) Section 117(a)(1) (50 U.S.C.**
24 **404l(a)(1)).**

1 **[(V) Section 303(a) (50 U.S.C. 405(a)),**
2 **both places it appears.**

3 **[(W) Section 501(d) (50 U.S.C. 413(d)).**

4 **[(X) Section 502(a) (50 U.S.C. 413a(a)).**

5 **[(Y) Section 502(c) (50 U.S.C. 413a(c)).**

6 **[(Z) Section 503(b) (50 U.S.C. 413b(b)).**

7 **[(AA) Section 504(a)(3)(C) (50 U.S.C.**
8 **414(a)(3)(C)).**

9 **[(BB) Section 504(d)(2) (50 U.S.C.**
10 **414(d)(2)).**

11 **[(CC) Section 506A(a)(1) (50 U.S.C.**
12 **415a-1(a)(1)).**

13 **[(DD) Section 603(a) (50 U.S.C.**
14 **423(a)).**

15 **[(EE) Section 702(a)(1) (50 U.S.C.**
16 **432(a)(1)).**

17 **[(FF) Section 702(a)(6)(B)(viii) (50**
18 **U.S.C. 432(a)(6)(B)(viii)).**

19 **[(GG) Section 702(b)(1) (50 U.S.C.**
20 **432(b)(1)), both places it appears.**

21 **[(HH) Section 703(a)(1) (50 U.S.C.**
22 **432a(a)(1)).**

23 **[(II) Section 703(a)(6)(B)(viii) (50**
24 **U.S.C. 432a(a)(6)(B)(viii)).**

1 **[(JJ) Section 703(b)(1) (50 U.S.C.**
2 **432a(b)(1)), both places it appears.**

3 **[(KK) Section 704(a)(1) (50 U.S.C.**
4 **432b(a)(1)).**

5 **[(LL) Section 704(f)(2)(H) (50 U.S.C.**
6 **432b(f)(2)(H)).**

7 **[(MM) Section 704(g)(1)) (50 U.S.C.**
8 **432b(g)(1)), both places it appears.**

9 **[(NN) Section 1001(a) (50 U.S.C.**
10 **441g(a)).**

11 **[(OO) Section 1102(a)(1) (50 U.S.C.**
12 **442a(a)(1)).**

13 **[(PP) Section 1102(b)(1) (50 U.S.C.**
14 **442a(b)(1)).**

15 **[(QQ) Section 1102(c)(1) (50 U.S.C.**
16 **442a(c)(1)).**

17 **[(RR) Section 1102(d) (50 U.S.C.**
18 **442a(d)).**

19 **[(2) That Act is further amended by strik-**
20 **ing “of Central Intelligence” each place it ap-**
21 **pears in the following provisions:**

22 **[(A) Section 105(a)(2) (50 U.S.C. 403–**
23 **5(a)(2)).**

24 **[(B) Section 105B(a)(2) (50 U.S.C. 403–**
25 **5b(a)(2)).**

1 **[(C) Section 105B(b) (50 U.S.C. 403–**
2 **5b(b)), the second place it appears.**

3 **[(3) That Act is further amended by strik-**
4 **ing “Director” each place it appears in the fol-**
5 **lowing provisions and inserting “National In-**
6 **telligence Director”:**

7 **[(A) Section 114(c) (50 U.S.C. 404i(c)).**

8 **[(B) Section 116(b) (50 U.S.C. 404k(b)).**

9 **[(C) Section 1001(b) (50 U.S.C.**
10 **441g(b)).**

11 **[(D) Section 1001(c) (50 U.S.C.**
12 **441g(c)), the first place it appears.**

13 **[(E) Section 1001(d)(1)(B) (50 U.S.C.**
14 **441g(d)(1)(B)).**

15 **[(F) Section 1001(e) (50 U.S.C.**
16 **441g(e)), the first place it appears.**

17 **[(4) Section 114A of that Act (50 U.S.C.**
18 **404i–1) is amended by striking “Director of**
19 **Central Intelligence” and inserting “National**
20 **Intelligence Director, the Director of the Cen-**
21 **tral Intelligence Agency”**

22 **[(5) Section 504(a)(2) of that Act (50 U.S.C.**
23 **414(a)(2)) is amended by striking “Director of**
24 **Central Intelligence” and inserting “Director**
25 **of the Central Intelligence Agency”.**

1 **[(6) Section 701 of that Act (50 U.S.C. 431)**
2 **is amended—**

3 **[(A) in subsection (a), by striking**
4 **“Operational files of the Central Intel-**
5 **ligence Agency may be exempted by the**
6 **Director of Central Intelligence” and in-**
7 **serting “The Director of the Central Intel-**
8 **ligence Agency, with the coordination of**
9 **the National Intelligence Director, may**
10 **exempt operational files of the Central**
11 **Intelligence Agency”]; and**

12 **[(B) in subsection (g)(1), by striking**
13 **“Director of Central Intelligence” and in-**
14 **serting “Director of the Central Intel-**
15 **ligence Agency and the National Intel-**
16 **ligence Director”].**

17 **[(7) The heading for section 114 of that**
18 **Act (50 U.S.C. 404i) is amended to read as fol-**
19 **lows:**

20 **[“ADDITIONAL ANNUAL REPORTS FROM THE**
21 **NATIONAL INTELLIGENCE DIRECTOR”].**

22 **[(b) CENTRAL INTELLIGENCE AGENCY ACT OF**
23 **1949.—(1) The Central Intelligence Agency Act**
24 **of 1949 (50 U.S.C. 403a et seq.) is amended by**
25 **striking “Director of Central Intelligence”**
26 **each place it appears in the following provi-**

1 sions and inserting “National Intelligence Di-
2 rector”:

3 [(A) Section 6 (50 U.S.C. 403g).

4 [(B) Section 17(f) (50 U.S.C. 403q(f)),
5 both places it appears.

6 [(2) That Act is further amended by strik-
7 ing “of Central Intelligence” in each of the fol-
8 lowing provisions:

9 [(A) Section 2 (50 U.S.C. 403b).

10 [(B) Section 16(c)(1)(B) (50 U.S.C.
11 403p(c)(1)(B)).

12 [(C) Section 17(d)(1) (50 U.S.C.
13 403q(d)(1)).

14 [(D) Section 20(c) (50 U.S.C. 403t(c)).

15 [(3) That Act is further amended by strik-
16 ing “Director of Central Intelligence” each
17 place it appears in the following provisions
18 and inserting “Director of the Central Intel-
19 ligence Agency”:

20 [(A) Section 14(b) (50 U.S.C. 403n(b)).

21 [(B) Section 16(b)(2) (50 U.S.C.
22 403p(b)(2)).

23 [(C) Section 16(b)(3) (50 U.S.C.
24 403p(b)(3)), both places it appears.

1 **[(D) Section 21(g)(1) (50 U.S.C.**
2 **403u(g)(1)).**

3 **[(E) Section 21(g)(2) (50 U.S.C.**
4 **403u(g)(2)).**

5 **[(c) CENTRAL INTELLIGENCE AGENCY RE-**
6 **TIREMENT ACT.—Section 101 of the Central In-**
7 **telligence Agency Retirement Act (50 U.S.C.**
8 **2001) is amended by striking paragraph (2)**
9 **and inserting the following new paragraph**
10 **(2):**

11 **[“(2) DIRECTOR.—The term ‘Director’**
12 **means the Director of the Central Intel-**
13 **ligence Agency.”.**

14 **[(d) CIA VOLUNTARY SEPARATION PAY**
15 **ACT.—Subsection (a)(1) of section 2 of the Cen-**
16 **tral Intelligence Agency Voluntary Separa-**
17 **tion Pay Act (50 U.S.C. 2001 note) is amended**
18 **to read as follows:**

19 **[“(1) the term ‘Director’ means the Di-**
20 **rector of the Central Intelligence Agen-**
21 **cy;”.**

22 **[(e) FOREIGN INTELLIGENCE SURVEILLANCE**
23 **ACT OF 1978.—(1) The Foreign Intelligence**
24 **Surveillance Act of 1978 (50 U.S.C. 1801 et**
25 **seq.) is amended by striking “Director of Cen-**

1 **tral Intelligence” each place it appears and in-**
2 **serting “National Intelligence Director”.**

3 **[(f) CLASSIFIED INFORMATION PROCEDURES**
4 **ACT.—Section 9(a) of the Classified Informa-**
5 **tion Procedures Act (5 U.S.C. App.) is amend-**
6 **ed by striking “Director of Central Intel-**
7 **ligence” and inserting “National Intelligence**
8 **Director”.**

9 **[(g) INTELLIGENCE AUTHORIZATION ACTS.—**

10 **[(1) PUBLIC LAW 103-359.—Section**
11 **811(c)(6)(C) of the counterintelligence**
12 **and Security Enhancements Act of 1994**
13 **(title VIII of Public Law 103-359) is**
14 **amended by striking “Director of Central**
15 **Intelligence” and inserting “National In-**
16 **telligence Director”.**

17 **[(2) PUBLIC LAW 107-306.—(A) The Intel-**
18 **ligence Authorization Act for Fiscal Year**
19 **2003 (Public Law 107-306) is amended by**
20 **striking “Director of Central Intelligence,**
21 **acting as the head of the intelligence**
22 **community,” each place it appears in the**
23 **following provisions and inserting “Na-**
24 **tional Intelligence Director”:**

1 **[(i) Section 313(a) (50 U.S.C.**
2 **404n(a)).**

3 **[(ii) Section 343(a)(1) (50 U.S.C.**
4 **404n-2(a)(1))**

5 **[(B) That Act is further amended by**
6 **striking “Director of Central Intelligence”**
7 **each place it appears in the following**
8 **provisions and inserting “National Intel-**
9 **ligence Director”:**

10 **[(i) Section 902(a)(2) (50 U.S.C.**
11 **402b(a)(2)).**

12 **[(ii) Section 904(e)(4) (50 U.S.C.**
13 **402c(e)(4)).**

14 **[(iii) Section 904(e)(5) (50 U.S.C.**
15 **402c(e)(5)).**

16 **[(iv) Section 904(h) (50 U.S.C.**
17 **402c(h)), each place it appears.**

18 **[(v) Section 904(m) (50 U.S.C.**
19 **402c(m)).**

20 **[(C) Section 341 of that Act (50 U.S.C.**
21 **404n-1) is amended by striking “Director**
22 **of Central Intelligence, acting as the head**
23 **of the intelligence community, shall es-**
24 **tablish in the Central Intelligence Agen-**
25 **cy” and inserting “National Intelligence**

1 **Director shall establish within the Cen-**
2 **tral Intelligence Agency”.**

3 **[(D) Section 352(b) of that Act (50**
4 **U.S.C. 404–3 note) is amended by striking**
5 **“Director” and inserting “National Intel-**
6 **ligence Director”.**

7 **[(3) PUBLIC LAW 108–177.—(A) The Intel-**
8 **ligence Authorization Act for Fiscal Year**
9 **2004 (Public Law 108–177) is amended by**
10 **striking “Director of Central Intelligence”**
11 **each place it appears in the following**
12 **provisions and inserting “National Intel-**
13 **ligence Director”:**

14 **[(i) Section 317(a) (50 U.S.C. 403–**
15 **3 note).**

16 **[(ii) Section 317(h)(1).**

17 **[(iii) Section 318(a) (50 U.S.C.**
18 **441g note).**

19 **[(iv) Section 319(b) (50 U.S.C. 403**
20 **note).**

21 **[(v) Section 341(b) (28 U.S.C. 519**
22 **note).**

23 **[(vi) Section 357(a) (50 U.S.C. 403**
24 **note).**

1 **[(vii) Section 504(a) (117 Stat.**
2 **2634), both places it appears.**

3 **[(B) Section 319(f)(2) of that Act (50**
4 **U.S.C. 403 note) is amended by striking**
5 **“Director” the first place it appears and**
6 **inserting “National Intelligence Direc-**
7 **tor”.**

8 **[(C) Section 404 of that Act (18 U.S.C.**
9 **4124 note) is amended by striking “Direc-**
10 **tor of Central Intelligence” and inserting**
11 **“Director of the Central Intelligence**
12 **Agency”.**

13 **[SEC. 1072. OTHER CONFORMING AMENDMENTS**

14 **[(a) NATIONAL SECURITY ACT OF 1947.—(1)**
15 **Section 101(j) of the National Security Act of**
16 **1947 (50 U.S.C. 402(j)) is amended by striking**
17 **“Deputy Director of Central Intelligence” and**
18 **inserting “Deputy National Intelligence Direc-**
19 **tor”.**

20 **[(2) Section 112(d)(1) of that Act (50 U.S.C.**
21 **404g(d)(1)) is amended by striking “section**
22 **103(c)(6) of this Act” and inserting “section**
23 **102A(g) of this Act”.**

24 **[(3) Section 116(b) of that Act (50 U.S.C.**
25 **404k(b)) is amended by striking “to the Dep-**

1 **uty Director of Central Intelligence, or with**
2 **respect to employees of the Central Intel-**
3 **ligence Agency, the Director may delegate**
4 **such authority to the Deputy Director for Op-**
5 **erations” and inserting “to the Deputy Na-**
6 **tional Intelligence Director, or with respect to**
7 **employees of the Central Intelligence Agency,**
8 **to the Director of the Central Intelligence**
9 **Agency”.**

10 **[(4) Section 506A(b)(1) of that Act (50**
11 **U.S.C. 415a-1(b)(1)) is amended by striking**
12 **“Office of the Deputy Director of Central In-**
13 **telligence” and inserting “Office of the Na-**
14 **tional Intelligence Director”.**

15 **[(5) Section 701(c)(3) of that Act (50 U.S.C.**
16 **431(c)(3)) is amended by striking “Office of**
17 **the Director of Central Intelligence” and in-**
18 **serting “Office of the National Intelligence Di-**
19 **rector”.**

20 **[(6) Section 1001(b) of that Act (50 U.S.C.**
21 **441g(b)) is amended by striking “Assistant Di-**
22 **rector of Central Intelligence for Administra-**
23 **tion” and inserting “Office of the National In-**
24 **telligence Director”.**

1 **[(b) CENTRAL INTELLIGENCE ACT OF 1949.—**
2 **Section 6 of the Central Intelligence Agency**
3 **Act of 1949 (50 U.S.C. 403g) is amended by**
4 **striking “section 103(c)(7) of the National Se-**
5 **curity Act of 1947 (50 U.S.C. 403–3(c)(7))” and**
6 **inserting “section 102A(g) of the National Se-**
7 **curity Act of 1947”.**

8 **[(c) CENTRAL INTELLIGENCE AGENCY RE-**
9 **TIREMENT ACT.—Section 201(c) of the Central**
10 **Intelligence Agency Retirement Act (50 U.S.C.**
11 **2011(c)) is amended by striking “paragraph**
12 **(6) of section 103(c) of the National Security**
13 **Act of 1947 (50 U.S.C. 403–3(c)) that the Direc-**
14 **tor of Central Intelligence” and inserting “sec-**
15 **tion 102A(g) of the National Security Act of**
16 **1947 (50 U.S.C. 403–3(c)(1)) that the National**
17 **Intelligence Director”.**

18 **[(d) INTELLIGENCE AUTHORIZATION ACTS.—**

19 **[(1) PUBLIC LAW 107–306.—(A) Section**
20 **343(c) of the Intelligence Authorization**
21 **Act for Fiscal Year 2003 (Public Law 107–**
22 **306; 50 U.S.C. 404n–2(c)) is amended by**
23 **striking “section 103(c)(6) of the National**
24 **Security Act of 1947 (50 U.S.C. 403–**
25 **3((c)(6))” and inserting “section 102A(g) of**

1 the National Security Act of 1947 (50
2 U.S.C. 403–3(c)(1))”.

3 [(B) Section 904 of that Act (50 U.S.C.
4 402c) is amended—

5 [(i) in subsection (c), by striking
6 “Office of the Director of Central In-
7 telligence” and inserting “Office of
8 the National Intelligence Director”;
9 and

10 [(ii) in subsection (l), by striking
11 “Office of the Director of Central In-
12 telligence” and inserting “Office of
13 the National Intelligence Director”.

14 [(2) PUBLIC LAW 108–177.—Section 317
15 of the Intelligence Authorization Act for
16 Fiscal Year 2004 (Public Law 108–177; 50
17 U.S.C. 403–3 note) is amended—

18 [(A) in subsection (g), by striking
19 “Assistant Director of Central Intel-
20 ligence for Analysis and Production”
21 and inserting “Deputy National Intel-
22 ligence Director”; and

23 [(B) in subsection (h)(2)(C), by
24 striking “Assistant Director” and in-

1 **serting “Deputy National Intelligence**
2 **Director”.**

3 **[SEC. 1073. ELEMENTS OF INTELLIGENCE COMMUNITY**
4 **UNDER NATIONAL SECURITY ACT OF 1947.**

5 **[Paragraph (4) of section 3 of the National**
6 **Security Act of 1947 (50 U.S.C. 401a) is amend-**
7 **ed to read as follows:**

8 **[“(4) The term ‘intelligence commu-**
9 **nity’ includes the following:**

10 **[“(A) The Office of the National**
11 **Intelligence Director.**

12 **[“(B) The Central Intelligence**
13 **Agency.**

14 **[“(C) The National Security Agen-**
15 **cy.**

16 **[“(D) The Defense Intelligence**
17 **Agency.**

18 **[“(E) The National Geospatial-In-**
19 **telligence Agency.**

20 **[“(F) The National Reconnaiss-**
21 **sance Office.**

22 **[“(G) Other offices within the De-**
23 **partment of Defense for the collection**
24 **of specialized national intelligence**
25 **through reconnaissance programs.**

1 **[(H) The intelligence elements of**
2 **the Army, the Navy, the Air Force,**
3 **the Marine Corps, the Federal Bureau**
4 **of Investigation, and the Department**
5 **of Energy.**

6 **[(I) The Bureau of Intelligence**
7 **and Research of the Department of**
8 **State.**

9 **[(J) The Office of Intelligence**
10 **and Analysis of the Department of the**
11 **Treasury.**

12 **[(K) The elements of the Depart-**
13 **ment of Homeland Security con-**
14 **cerned with the analysis of intel-**
15 **ligence information, including the Of-**
16 **fice of Intelligence of the Coast**
17 **Guard.**

18 **[(L) Such other elements of any**
19 **other department or agency as may**
20 **be designated by the President, or**
21 **designated jointly by the National In-**
22 **telligence Director and the head of**
23 **the department or agency concerned,**
24 **as an element of the intelligence com-**
25 **munity.”.**

1 [SEC. 1074. REDESIGNATION OF NATIONAL FOREIGN IN-
2 TELLIGENCE PROGRAM AS NATIONAL INTEL-
3 LIGENCE PROGRAM.

4 [(a) REDESIGNATION.—Paragraph (6) of
5 section 3 of the National Security Act of 1947
6 (50 U.S.C. 401a) is amended by striking “For-
7 eign”.

8 [(b) CONFORMING AMENDMENTS.—(1) Sec-
9 tion 506(a) of the National Security Act of
10 1947 (50 U.S.C. 415a(a)) is amended by striking
11 “National Foreign Intelligence Program” and
12 inserting “National Intelligence Program”.

13 [(2) Section 17(f) of the Central Intel-
14 ligence Agency Act of 1949 (50 U.S.C. 403q(f))
15 is amended by striking “National Foreign In-
16 telligence Program” and inserting “National
17 Intelligence Program”.

18 [(c) HEADING AMENDMENT.—The heading of
19 section 506 of that Act is amended by striking
20 “FOREIGN”.

21 [SEC. 1075. REPEAL OF SUPERSEDED AUTHORITIES.

22 [(a) APPOINTMENT OF CERTAIN INTEL-
23 LIGENCE OFFICIALS.—Section 106 of the Na-
24 tional Security Act of 1947 (50 U.S.C. 403–6) is
25 repealed.

1 **[(b) COLLECTION TASKING AUTHORITY.—**
 2 **Section 111 of the National Security Act of**
 3 **1947 (50 U.S.C. 404f) is repealed.**

4 **[SEC. 1076. CLERICAL AMENDMENTS TO NATIONAL SECU-**
 5 **RITY ACT OF 1947.**

6 **[The table of contents for the National Se-**
 7 **curity Act of 1947 is amended—**

8 **[(1) by striking the items relating to**
 9 **sections 102 through 104 and inserting**
 10 **the following new items:**

["Sec. 102. National Intelligence Director.

["Sec. 102A. Responsibilities and authorities of National Intel-
 ligence Director.

["Sec. 103. Office of the National Intelligence Director.

["Sec. 104. Central Intelligence Agency.

["Sec. 104A. Director of the Central Intelligence Agency.”; and

11 **[(2) by striking the item relating to**
 12 **section 114 and inserting the following**
 13 **new item:**

["Sec. 114. Additional annual reports from the National Intel-
 ligence Director.”;

14 **[and**

15 **[(3) by striking the item relating to**
 16 **section 506 and inserting the following**
 17 **new item:**

["Sec. 506. Specificity of National Intelligence Program budget
 amounts for counterterrorism, counter-
 proliferation, counternarcotics, and counter-
 intelligence”.

1 [SEC. 1077. CONFORMING AMENDMENTS RELATING TO
2 PROHIBITING DUAL SERVICE OF THE DIREC-
3 TOR OF THE CENTRAL INTELLIGENCE AGEN-
4 CY.

5 [Section 1 of the Central Intelligence
6 Agency Act of 1949 (50 U.S.C. 403a) is amend-
7 ed—

8 [(1) by redesignating paragraphs (a),
9 (b), and (c) as paragraphs (1), (2), and (3),
10 respectively; and

11 [(2) by striking paragraph (2), as so
12 redesignated, and inserting the following
13 new paragraph (2):

14 [“(2) ‘Director’ means the Director of the
15 Central Intelligence Agency; and”.

16 [SEC. 1078. ACCESS TO INSPECTOR GENERAL PROTEC-
17 TIONS.

18 [Section 17(a)(1) of the Central Intel-
19 ligence Agency Act of 1949 (50 U.S.C.
20 403q(a)(1)) is amended by inserting before the
21 semicolon at the end the following: “and to
22 programs and operations of the Office of the
23 National Intelligence Director”.

24 [SEC. 1079. GENERAL REFERENCES.

25 [(a) DIRECTOR OF CENTRAL INTELLIGENCE
26 AS HEAD OF INTELLIGENCE COMMUNITY.—Any

1 reference to the Director of Central Intel-
2 ligence or the Director of the Central Intel-
3 ligence Agency in the Director's capacity as
4 the head of the intelligence community in any
5 law, regulation, document, paper, or other
6 record of the United States shall be deemed
7 to be a reference to the National Intelligence
8 Director.

9 **[(b) DIRECTOR OF CENTRAL INTELLIGENCE**
10 **AS HEAD OF CIA.—Any reference to the Direc-**
11 **tor of Central Intelligence or the Director of**
12 **the Central Intelligence Agency in the Direc-**
13 **tor's capacity as the head of the Central Intel-**
14 **ligence Agency in any law, regulation, docu-**
15 **ment, paper, or other record of the United**
16 **States shall be deemed to be a reference to the**
17 **Director of the Central Intelligence Agency.**

18 **[(c) COMMUNITY MANAGEMENT STAFF.—Any**
19 **reference to the Community Management**
20 **Staff in any law, regulation, document, paper,**
21 **or other record of the United States shall be**
22 **deemed to be a reference to the staff of the**
23 **Office of the National Intelligence Director.**

1 [SEC. 1080. APPLICATION OF OTHER LAWS.

2 [(a) POLITICAL SERVICE OF PERSONNEL.—

3 Section 7323(b)(2)(B)(i) of title 5, United
4 States Code, is amended—

5 [(1) in subclause (XII), by striking
6 “or” at the end; and

7 [(2) by inserting after subclause
8 (XIII) the following new subclause:

9 [“(XIV) the Office of the National
10 Intelligence Director; or”.

11 [(b) DELETION OF INFORMATION ABOUT FOR-
12 EIGN GIFTS.—Section 7342(f)(4) of title 5,
13 United States Code, is amended—

14 [(1) by inserting “(A)” after “(4)”;

15 [(2) in subparagraph (A), as so des-
16 ignated, by striking “the Director of Cen-
17 tral Intelligence” and inserting “the Di-
18 rector of the Central Intelligence Agen-
19 cy”; and

20 [(3) by adding at the end the fol-
21 lowing new subparagraph:

22 [“(B) In transmitting such listings for the
23 Office of the National Intelligence Director,
24 the National Intelligence Director may delete
25 the information described in subparagraphs
26 (A) and (C) of paragraphs (2) and (3) if the Di-

1 rector certifies in writing to the Secretary of
2 State that the publication of such information
3 could adversely affect United States intel-
4 ligence sources.”.

5 [(c) EXEMPTION FROM FINANCIAL DISCLO-
6 SURES.—Section 105(a)(1) of the Ethics in Gov-
7 ernment Act (5 U.S.C. App.) is amended by in-
8 serting “the Office of the National Intelligence
9 Director,” before “the Central Intelligence
10 Agency”.

11 **[Subtitle H—Transfer, Termi-**
12 **nation, Transition and Other**
13 **Provisions**

14 **[SEC. 1091. TRANSFER OF COMMUNITY MANAGEMENT**
15 **STAFF.**

16 [(a) TRANSFER.—There shall be trans-
17 ferred to the Office of the National Intel-
18 ligence Director the staff of the Community
19 Management Staff as of the date of the enact-
20 ment of this Act, including all functions and
21 activities discharged by the Community Man-
22 agement Staff as of that date.

23 [(b) ADMINISTRATION.—The National Intel-
24 ligence Director shall administer the Commu-
25 nity Management Staff after the date of the

1 enactment of this Act as a component of the
2 Office of the National Intelligence Director
3 under section 103(b) of the National Security
4 Act of 1947, as amended by section 1011(a).

5 [SEC. 1092. TRANSFER OF TERRORIST THREAT INTEGRA-
6 TION CENTER.

7 [(a) TRANSFER.—There shall be trans-
8 ferred to the National counterterrorism Cen-
9 ter the Terrorist Threat Integration Center
10 (TTIC), including all functions and activities
11 discharged by the Terrorist Threat Integra-
12 tion Center as of the date of the enactment of
13 this Act.

14 [(b) ADMINISTRATION.—The Director of the
15 National counterterrorism Center shall ad-
16 minister the Terrorist Threat Integration
17 Center after the date of the enactment of this
18 Act as a component of the Directorate of Intel-
19 ligence of the National counterterrorism Cen-
20 ter under section 119(i) of the National Secu-
21 rity Act of 1947, as added by section 1021(a).

1 [SEC. 1093. TERMINATION OF POSITIONS OF ASSISTANT DI-
2 RECTORS OF CENTRAL INTELLIGENCE.

3 [(a) TERMINATION.—The positions within
4 the Central Intelligence Agency referred to in
5 subsection (b) are hereby abolished.

6 [(b) COVERED POSITIONS.—The positions
7 within the Central Intelligence Agency re-
8 ferred to in this subsection are as follows:

9 [(1) The Assistant Director of Central
10 Intelligence for Collection.

11 [(2) The Assistant Director of Central
12 Intelligence for Analysis and Production.

13 [(3) The Assistant Director of Central
14 Intelligence for Administration.

15 [SEC. 1094. IMPLEMENTATION PLAN.

16 [(a) SUBMISSION OF PLAN.—The President
17 shall transmit to Congress a plan for the im-
18 plementation of this title and the amend-
19 ments made by this title. The plan shall ad-
20 dress, at a minimum, the following:

21 [(1) The transfer of personnel, assets,
22 and obligations to the National Intel-
23 ligence Director pursuant to this title.

24 [(2) Any consolidation, reorganiza-
25 tion, or streamlining of activities trans-

1 **ferred to the National Intelligence Direc-**
2 **tor pursuant to this title.**

3 **[(3) The establishment of offices with-**
4 **in the Office of the National Intelligence**
5 **Director to implement the duties and re-**
6 **sponsibilities of the National Intelligence**
7 **Director as described in this title.**

8 **[(4) Specification of any proposed dis-**
9 **position of property, facilities, contracts,**
10 **records, and other assets and obligations**
11 **to be transferred to the National Intel-**
12 **ligence Director.**

13 **[(5) Recommendations for additional**
14 **legislative or administrative action as the**
15 **Director considers appropriate.**

16 **[(b) SENSE OF CONGRESS.—It is the sense of**
17 **Congress that the permanent location for the**
18 **headquarters for the Office of the National In-**
19 **telligence Director, should be at a location**
20 **other than the George Bush Center for Intel-**
21 **ligence in Langley, Virginia.**

22 **[SEC. 1095. TRANSITIONAL AUTHORITIES.**

23 **[Upon the request of the National Intel-**
24 **ligence Director, the head of any executive**
25 **agency may, on a reimbursable basis, provide**

1 services or detail personnel to the National
2 Intelligence Director.

3 [SEC. 1096. EFFECTIVE DATES.

4 [(a) IN GENERAL.—Except as otherwise ex-
5 pressly provided in this Act, this title and the
6 amendments made by this title shall take ef-
7 fect on the date of the enactment of this Act.

8 [(b) SPECIFIC EFFECTIVE DATES.—(1)(A) Not
9 later than 60 days after the date of the enact-
10 ment of this Act, the National Intelligence Di-
11 rector shall first appoint individuals to posi-
12 tions within the Office of the National Intel-
13 ligence Director.

14 [(B) Subparagraph (A) shall not apply
15 with respect to the Deputy National Intel-
16 ligence Director.

17 [(2) Not later than 180 days after the date
18 of the enactment of this Act, the President
19 shall transmit to Congress the implementa-
20 tion plan required under section 1904.

21 [(3) Not later than one year after the date
22 of the enactment of this Act, the National In-
23 telligence Director shall prescribe regula-
24 tions, policies, procedures, standards, and
25 guidelines required under section 102A of the

1 National Security Act of 1947, as amended by
2 section 1011(a).

3 **[TITLE II—TERRORISM PREVEN-**
4 **TION AND PROSECUTION**
5 **[Subtitle A—Individual Terrorists**
6 **as Agents of Foreign Powers**

7 **[SEC. 2001. PRESUMPTION THAT CERTAIN NON-UNITED**
8 **STATES PERSONS ENGAGING IN INTER-**
9 **NATIONAL TERRORISM ARE AGENTS OF FOR-**
10 **EIGN POWERS FOR PURPOSES OF THE FOR-**
11 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**
12 **1978.**

13 **[(a) PRESUMPTION.—(1) The Foreign Intel-**
14 **ligence Surveillance Act of 1978 (50 U.S.C.**
15 **1801 et seq.) is amended by inserting after sec-**
16 **tion 101 the following new section:**

17 **[“PRESUMPTION OF TREATMENT OF CERTAIN NON-**
18 **UNITED STATES PERSONS ENGAGED IN INTER-**
19 **NATIONAL TERRORISM AS AGENTS OF FOR-**
20 **EIGN POWERS**

21 **[“SEC. 101A. Upon application by the Fed-**
22 **eral official applying for an order under this**
23 **Act, the court may presume that a non-United**
24 **States person who is knowingly engaged in**
25 **sabotage or international terrorism, or activi-**
26 **ties that are in preparation therefor, is an**

1 agent of a foreign power under section
2 101(b)(2)(C).”.

3 [(2) The table of contents for that Act is
4 amended by inserting after the item relating
5 to section 101 the following new item:

["Sec. 101A. Presumption of treatment of certain non-United
States persons engaged in international terrorism
as agents of foreign powers.”.

6 [(b) SUNSET.—The amendments made by
7 subsection (a) shall be subject to the sunset
8 provision in section 224 of the USA PATRIOT
9 Act of 2001 (Public Law 107–56; 115 Stat. 295),
10 including the exception provided in sub-
11 section (b) of such section 224.

12 [Subtitle B—Stop Terrorist and
13 Military Hoaxes Act of 2004

14 [SEC. 2021. SHORT TITLE.

15 [This subtitle may be cited as the “Stop
16 Terrorist and Military Hoaxes Act of 2004”.

17 [SEC. 2022. HOAXES AND RECOVERY COSTS.

18 [(a) PROHIBITION ON HOAXES.—Chapter 47
19 of title 18, United States Code, is amended by
20 inserting after section 1037 the following:

21 [“§ 1038. False information and hoaxes

22 [(a) CRIMINAL VIOLATION.—

23 [(1) IN GENERAL.—Whoever engages
24 in any conduct with intent to convey

1 **false or misleading information under**
2 **circumstances where such information**
3 **may reasonably be believed and where**
4 **such information indicates that an activ-**
5 **ity has taken, is taking, or will take place**
6 **that would constitute a violation of chap-**
7 **ter 2, 10, 11B, 39, 40, 44, 111, or 113B of**
8 **this title, section 236 of the Atomic En-**
9 **ergy Act of 1954 (42 U.S.C. 2284), or sec-**
10 **tion 46502, the second sentence of section**
11 **46504, section 46505 (b)(3) or (c), section**
12 **46506 if homicide or attempted homicide**
13 **is involved, or section 60123(b) of title 49**
14 **shall—**

15 **[(A) be fined under this title or**
16 **imprisoned not more than 5 years, or**
17 **both;**

18 **[(B) if serious bodily injury re-**
19 **sults, be fined under this title or im-**
20 **prisoned not more than 25 years, or**
21 **both; and**

22 **[(C) if death results, be fined**
23 **under this title or imprisoned for any**
24 **number of years up to life, or both.**

1 **[(2) ARMED FORCES.—Whoever, with-**
2 **out lawful authority, makes a false state-**
3 **ment, with intent to convey false or mis-**
4 **leading information, about the death, in-**
5 **jury, capture, or disappearance of a mem-**
6 **ber of the Armed Forces of the United**
7 **States during a war or armed conflict in**
8 **which the United States is engaged,**
9 **shall—**

10 **[(A) be fined under this title or**
11 **imprisoned not more than 5 years, or**
12 **both;**

13 **[(B) if serious bodily injury re-**
14 **sults, be fined under this title or im-**
15 **prisoned not more than 25 years, or**
16 **both; and**

17 **[(C) if death results, be fined**
18 **under this title or imprisoned for any**
19 **number of years up to life, or both.**

20 **[(b) CIVIL ACTION.—Whoever knowingly**
21 **engages in any conduct with intent to convey**
22 **false or misleading information under cir-**
23 **cumstances where such information may rea-**
24 **sonably be believed and where such informa-**
25 **tion indicates that an activity has taken, is**

1 taking, or will take place that would con-
2 stitute a violation of chapter 2, 10, 11B, 39, 40,
3 44, 111, or 113B of this title, section 236 of the
4 Atomic Energy Act of 1954 (42 U.S.C. 2284), or
5 section 46502, the second sentence of section
6 46504, section 46505 (b)(3) or (c), section 46506
7 if homicide or attempted homicide is in-
8 volved, or section 60123(b) of title 49 is liable
9 in a civil action to any party incurring ex-
10 penses incident to any emergency or inves-
11 tigative response to that conduct, for those
12 expenses.

13 **[(c) REIMBURSEMENT.—**

14 **[(1) IN GENERAL.—**The court, in im-
15 posing a sentence on a defendant who
16 has been convicted of an offense under
17 subsection (a), shall order the defendant
18 to reimburse any state or local govern-
19 ment, or private not-for-profit organiza-
20 tion that provides fire or rescue service
21 incurring expenses incident to any emer-
22 gency or investigative response to that
23 conduct, for those expenses.

24 **[(2) LIABILITY.—**A person ordered to
25 make reimbursement under this sub-

1 section shall be jointly and severally lia-
2 ble for such expenses with each other
3 person, if any, who is ordered to make re-
4 imbursement under this subsection for
5 the same expenses.

6 **[(“(3) CIVIL JUDGMENT.—An order of re-**
7 **imbursement under this subsection shall,**
8 **for the purposes of enforcement, be treat-**
9 **ed as a civil judgment.**

10 **[(“(d) ACTIVITIES OF LAW ENFORCEMENT.—**
11 **This section does not prohibit any lawfully**
12 **authorized investigative, protective, or intel-**
13 **ligence activity of a law enforcement agency**
14 **of the United States, a State, or political sub-**
15 **division of a State, or of an intelligence agen-**
16 **cy of the United States.”.**

17 **[(b) CLERICAL AMENDMENT.—The table of**
18 **sections as the beginning of chapter 47 of title**
19 **18, United States Code, is amended by adding**
20 **after the item for section 1037 the following:**

[(“1038. False information and hoaxes.”.

21 **[SEC. 2023. OBSTRUCTION OF JUSTICE AND FALSE STATE-**
22 **MENTS IN TERRORISM CASES.**

23 **[(a) ENHANCED PENALTY.—Section 1001(a)**
24 **and the third undesignated paragraph of sec-**
25 **tion 1505 of title 18, United States Code, are**

1 amended by striking “be fined under this title
2 or imprisoned not more than 5 years, or both”
3 and inserting “be fined under this title, im-
4 prisoned not more than 5 years or, if the mat-
5 ter relates to international or domestic ter-
6 rorism (as defined in section 2331), impris-
7 oned not more than 10 years, or both”.

8 **[(b) SENTENCING GUIDELINES.—**Not later
9 than 30 days of the enactment of this section,
10 the United States Sentencing Commission
11 shall amend the Sentencing Guidelines to pro-
12 vide for an increased offense level for an of-
13 fense under sections 1001(a) and 1505 of title
14 18, United States Code, if the offense involves
15 a matter relating to international or domestic
16 terrorism, as defined in section 2331 of such
17 title.

18 **[SEC. 2024. CLARIFICATION OF DEFINITION.**

19 **[Section 1958 of title 18, United States**
20 **Code, is amended—**

21 **[(1) in subsection (a), by striking “fa-**
22 **cility in” and inserting “facility of”; and**

23 **[(2) in subsection (b)(2), by inserting**
24 **“or foreign” after “interstate”.**

1 **[Subtitle C—Material Support to**
2 **Terrorism Prohibition Enhance-**
3 **ment Act of 2004**

4 **[SEC. 2041. SHORT TITLE.**

5 **[This subtitle may be cited as the “Mate-**
6 **rial Support to Terrorism Prohibition En-**
7 **hancement Act of 2004”.**

8 **[SEC. 2042. RECEIVING MILITARY-TYPE TRAINING FROM A**
9 **FOREIGN TERRORIST ORGANIZATION.**

10 **[Chapter 113B of title 18, United States**
11 **Code, is amended by adding after section**
12 **2339C the following new section:**

13 **[“§ 2339D. Receiving military-type training from a**
14 **foreign terrorist organization**

15 **[“(a) OFFENSE.—Whoever knowingly re-**
16 **ceives military-type training from or on be-**
17 **half of any organization designated at the**
18 **time of the training by the Secretary of State**
19 **under section 219(a)(1) of the Immigration**
20 **and Nationality Act as a foreign terrorist or-**
21 **ganization shall be fined under this title or**
22 **imprisoned for ten years, or both. To violate**
23 **this subsection, a person must have knowl-**
24 **edge that the organization is a designated ter-**
25 **rorist organization (as defined in subsection**

1 (c)(4)), that the organization has engaged or
2 engages in terrorist activity (as defined in
3 section 212 of the Immigration and Nation-
4 ality Act), or that the organization has en-
5 gaged or engages in terrorism (as defined in
6 section 140(d)(2) of the Foreign Relations Au-
7 thorization Act, Fiscal Years 1988 and 1989).

8 **[(“b) EXTRATERRITORIAL JURISDICTION.—**
9 **There is extraterritorial Federal jurisdiction**
10 **over an offense under this section. There is ju-**
11 **risdiction over an offense under subsection**
12 **(a) if—**

13 **[(“(1) an offender is a national of the**
14 **United States (as defined in 101(a)(22) of**
15 **the Immigration and Nationality Act) or**
16 **an alien lawfully admitted for permanent**
17 **residence in the United States (as defined**
18 **in section 101(a)(20) of the Immigration**
19 **and Nationality Act);**

20 **[(“(2) an offender is a stateless person**
21 **whose habitual residence is in the United**
22 **States;**

23 **[(“(3) after the conduct required for**
24 **the offense occurs an offender is brought**
25 **into or found in the United States, even if**

1 the conduct required for the offense oc-
2 curs outside the United States;

3 [“(4) the offense occurs in whole or in
4 part within the United States;

5 [“(5) the offense occurs in or affects
6 interstate or foreign commerce;

7 [“(6) an offender aids or abets any
8 person over whom jurisdiction exists
9 under this paragraph in committing an
10 offense under subsection (a) or conspires
11 with any person over whom jurisdiction
12 exists under this paragraph to commit an
13 offense under subsection (a).

14 [“(c) DEFINITIONS.—As used in this sec-
15 tion—

16 [“(1) the term ‘military-type training’
17 includes training in means or methods
18 that can cause death or serious bodily in-
19 jury, destroy or damage property, or dis-
20 rupt services to critical infrastructure, or
21 training on the use, storage, production,
22 or assembly of any explosive, firearm or
23 other weapon, including any weapon of
24 mass destruction (as defined in section
25 2232a(c)(2));

1 **[(2) the term ‘serious bodily injury’**
2 **has the meaning given that term in sec-**
3 **tion 1365(h)(3);**

4 **[(3) the term ‘critical infrastructure’**
5 **means systems and assets vital to na-**
6 **tional defense, national security, eco-**
7 **nomi c security, public health or safety in-**
8 **cluding both regional and national infra-**
9 **structure. Critical infrastructure may be**
10 **publicly or privately owned; examples of**
11 **critical infrastructure include gas and oil**
12 **production, storage, or delivery systems,**
13 **water supply systems, telecommuni-**
14 **cations networks, electrical power gen-**
15 **eration or delivery systems, financing**
16 **and banking systems, emergency services**
17 **(including medical, police, fire, and res-**
18 **cue services), and transportation systems**
19 **and services (including highways, mass**
20 **transit, airlines, and airports); and**

21 **[(4) the term ‘foreign terrorist orga-**
22 **nization’ means an organization des-**
23 **ignated as a terrorist organization under**
24 **section 219(a)(1) of the Immigration and**
25 **Nationality Act.”.**

1 [SEC. 2043. PROVIDING MATERIAL SUPPORT TO TER-
2 RORISM.

3 [(a) ADDITIONS TO OFFENSE OF PROVIDING
4 MATERIAL SUPPORT TO TERRORISTS.—Section
5 2339A(a) of title 18, United States Code, is
6 amended—

7 [(1) by designating the first sentence
8 as paragraph (1);

9 [(2) by designating the second sen-
10 tence as paragraph (3);

11 [(3) by inserting after paragraph (1)
12 as so designated by this subsection the
13 following:

14 [“(2) (A) Whoever in a circumstance
15 described in subparagraph (B) provides
16 material support or resources or conceals
17 or disguises the nature, location, source,
18 or ownership of material support or re-
19 sources, knowing or intending that they
20 are to be used in preparation for, or in
21 carrying out, an act of international or
22 domestic terrorism (as defined in section
23 2331), or in preparation for, or in car-
24 rying out, the concealment or escape
25 from the commission of any such act, or
26 attempts or conspires to do so, shall be

1 punished as provided under paragraph
2 (1) for an offense under that paragraph.

3 **[(B) The circumstances referred to**
4 **in subparagraph (A) are any of the fol-**
5 **lowing:**

6 **[(i) The offense occurs in or af-**
7 **fects interstate or foreign commerce.**

8 **[(ii) The act of terrorism is an**
9 **act of international or domestic ter-**
10 **rorism that violates the criminal law**
11 **of the United States.**

12 **[(iii) The act of terrorism is an**
13 **act of domestic terrorism that ap-**
14 **pears to be intended to influence the**
15 **policy, or affect the conduct, of the**
16 **Government of the United States or a**
17 **foreign government.**

18 **[(iv) An offender, acting within**
19 **the United States or outside the terri-**
20 **torial jurisdiction of the United**
21 **States, is a national of the United**
22 **States (as defined in section**
23 **101(a)(22) of the Immigration and Na-**
24 **tionality Act), an alien lawfully ad-**
25 **mitted for permanent residence in**

1 the United States (as defined in sec-
2 tion 101(a)(20) of the Immigration and
3 Nationality Act), or a stateless person
4 whose habitual residence is in the
5 United States, and the act of ter-
6 rorism is an act of international ter-
7 rorism that appears to be intended to
8 influence the policy, or affect the con-
9 duct, of the Government of the United
10 States or a foreign government.

11 [“(v) An offender, acting within
12 the United States, is an alien, and the
13 act of terrorism is an act of inter-
14 national terrorism that appears to be
15 intended to influence the policy, or
16 affect the conduct, of the Government
17 of the United States or a foreign gov-
18 ernment.

19 [“(vi) An offender, acting outside
20 the territorial jurisdiction of the
21 United States, is an alien and the act
22 of terrorism is an act of international
23 terrorism that appears to be intended
24 to influence the policy of, or affect

1 the conduct of, the Government of the
2 United States.

3 [“(vii) An offender aids or abets
4 any person over whom jurisdiction
5 exists under this paragraph in com-
6 mitting an offense under this para-
7 graph or conspires with any person
8 over whom jurisdiction exists under
9 this paragraph to commit an offense
10 under this paragraph.”; and

11 [(4) by inserting “act or” after “un-
12 derlying”].

13 [(b) DEFINITIONS.—Section 2339A(b) of
14 title 18, United States Code, is amended—

15 [(1) by striking “In this” and insert-
16 ing “(1) In this”;

17 [(2) by inserting “any property, tan-
18 gible or intangible, or service, including”
19 after “means”;

20 [(3) by inserting “(one or more indi-
21 viduals who may be or include oneself)”
22 after “personnel”;

23 [(4) by inserting “and” before “trans-
24 portation”;

1 **[(5) by striking “and other physical**
2 **assets”; and**

3 **[(6) by adding at the end the fol-**
4 **lowing:**

5 **[(“(2) As used in this subsection, the term**
6 **‘training’ means instruction or teaching de-**
7 **signed to impart a specific skill, as opposed to**
8 **general knowledge, and the term ‘expert ad-**
9 **vice or assistance’ means advice or assistance**
10 **derived from scientific, technical or other**
11 **specialized knowledge.”.**

12 **[(c) ADDITION TO OFFENSE OF PROVIDING**
13 **MATERIAL SUPPORT TO TERRORIST ORGANIZA-**
14 **TIONS.—Section 2339B(a)(1) of title 18, United**
15 **States Code, is amended—**

16 **[(1) by striking “, within the United**
17 **States or subject to the jurisdiction of the**
18 **United States,” and inserting “in a cir-**
19 **cumstance described in paragraph (2)”;**
20 **and**

21 **[(2) by adding at the end the fol-**
22 **lowing: “To violate this paragraph, a per-**
23 **son must have knowledge that the orga-**
24 **nization is a designated terrorist organi-**
25 **zation (as defined in subsection (g)(6)),**

1 that the organization has engaged or en-
2 gages in terrorist activity (as defined in
3 section 212(a)(3)(B) of the Immigration
4 and Nationality Act, or that the organiza-
5 tion has engaged or engages in terrorism
6 (as defined in section 140(d)(2) of the For-
7 eign Relations Authorization Act, Fiscal
8 Years 1988 and 1989.”.

9 **[(d) FEDERAL AUTHORITY.—Section**
10 **2339B(d) of title 18 is amended—**

11 **[(1) by inserting “(1)” before “There”;**
12 **and**

13 **[(2) by adding at the end the fol-**
14 **lowing:**

15 **[“(2) The circumstances referred to in**
16 **paragraph (1) are any of the following:**

17 **[“(A) An offender is a national of the**
18 **United States (as defined in section**
19 **101(a)(22) of the Immigration and Nation-**
20 **ality Act (8 U.S.C. 1101(a)(22)) or an alien**
21 **lawfully admitted for permanent resi-**
22 **dence in the United States (as defined in**
23 **section 101(a)(20) of the Immigration and**
24 **Nationality Act.**

1 **[(B) An offender is a stateless person**
2 **whose habitual residence is in the United**
3 **States.**

4 **[(C) After the conduct required for**
5 **the offense occurs an offender is brought**
6 **into or found in the United States, even if**
7 **the conduct required for the offense oc-**
8 **curs outside the United States.**

9 **[(D) The offense occurs in whole or**
10 **in part within the United States.**

11 **[(E) The offense occurs in or affects**
12 **interstate or foreign commerce.**

13 **[(F) An offender aids or abets any**
14 **person over whom jurisdiction exists**
15 **under this paragraph in committing an**
16 **offense under subsection (a) or conspires**
17 **with any person over whom jurisdiction**
18 **exists under this paragraph to commit an**
19 **offense under subsection (a).”.**

20 **[(e) DEFINITION.—Paragraph (4) of section**
21 **2339B(g) of title 18, United States Code, is**
22 **amended to read as follows:**

23 **[(4) the term ‘material support or re-**
24 **sources’ has the same meaning given that**
25 **term in section 2339A;”.**

1 **[(f) ADDITIONAL PROVISIONS.—Section**
2 **2339B of title 18, United States Code, is**
3 **amended by adding at the end the following:**

4 **[(“h) PROVISION OF PERSONNEL.—No per-**
5 **son may be prosecuted under this section in**
6 **connection with the term ‘personnel’ unless**
7 **that person has knowingly provided, at-**
8 **tempted to provide, or conspired to provide a**
9 **foreign terrorist organization with one or**
10 **more individuals (who may be or include him-**
11 **self) to work under that terrorist organiza-**
12 **tion’s direction or control or to organize, man-**
13 **age, supervise, or otherwise direct the oper-**
14 **ation of that organization. Individuals who**
15 **act entirely independently of the foreign ter-**
16 **rorist organization to advance its goals or ob-**
17 **jectives shall not be considered to be working**
18 **under the foreign terrorist organization’s di-**
19 **rection and control.**

20 **[(“i) RULE OF CONSTRUCTION.—Nothing in**
21 **this section shall be construed or applied so**
22 **as to abridge the exercise of rights guaran-**
23 **teed under the First Amendment to the Con-**
24 **stitution of the United States.”.**

1 [SEC. 2044. FINANCING OF TERRORISM.

2 [(a) FINANCING TERRORISM.—Section
3 2339c(c)(2) of title 18, United States Code, is
4 amended—

5 [(1) by striking “, resources, or funds”
6 and inserting “or resources, or any funds
7 or proceeds of such funds”;

8 [(2) in subparagraph (A), by striking
9 “were provided” and inserting “are to be
10 provided, or knowing that the support or
11 resources were provided,”; and

12 [(3) in subparagraph (B)—

13 [(A) by striking “or any proceeds
14 of such funds”; and

15 [(B) by striking “were provided
16 or collected” and inserting “are to be
17 provided or collected, or knowing
18 that the funds were provided or col-
19 lected,”.

20 [(b) DEFINITIONS.—Section 2339c(e) of title
21 18, United States Code, is amended—

22 [(1) by striking “and” at the end of
23 paragraph (12);

24 [(2) by redesignating paragraph (13)
25 as paragraph (14); and

1 **[(3) by inserting after paragraph (12)**
2 **the following:**

3 **["(13) the term ‘material support or**
4 **resources’ has the same meaning given**
5 **that term in section 2339B(g)(4) of this**
6 **title; and”.**

7 **[Subtitle D—Weapons of Mass De-**
8 **struction Prohibition Improve-**
9 **ment Act of 2004**

10 **[SEC. 2051. SHORT TITLE.**

11 **[This subtitle may be cited as the “Weap-**
12 **ons of Mass Destruction Prohibition Improve-**
13 **ment Act of 2004”.**

14 **[SEC. 2052. WEAPONS OF MASS DESTRUCTION.**

15 **[(a) EXPANSION OF JURISDICTIONAL BASES**
16 **AND SCOPE.—Section 2332a of title 18, United**
17 **States Code, is amended—**

18 **[(1) so that paragraph (2) of sub-**
19 **section (a) reads as follows:**

20 **["(2) against any person or property**
21 **within the United States, and**

22 **["(A) the mail or any facility of**
23 **interstate or foreign commerce is**
24 **used in furtherance of the offense;**

1 **[(“B) such property is used in**
2 **interstate or foreign commerce or in**
3 **an activity that affects interstate or**
4 **foreign commerce;**

5 **[(“C) any perpetrator travels in**
6 **or causes another to travel in inter-**
7 **state or foreign commerce in further-**
8 **ance of the offense; or**

9 **[(“D) the offense, or the results of**
10 **the offense, affect interstate or for-**
11 **foreign commerce, or, in the case of a**
12 **threat, attempt, or conspiracy, would**
13 **have affected interstate or foreign**
14 **commerce;”;**

15 **[(2) in paragraph (3) of subsection**
16 **(a), by striking the comma at the end and**
17 **inserting “; or”;**

18 **[(3) in subsection (a), by adding the**
19 **following at the end:**

20 **[(“(4) against any property within the**
21 **United States that is owned, leased, or**
22 **used by a foreign government,”;**

23 **[(4) at the end of subsection (c)(1), by**
24 **striking “and”;**

1 **[(5) in subsection (c)(2), by striking**
2 **the period at the end and inserting “;**
3 **and”]; and**

4 **[(6) in subsection (c), by adding at**
5 **the end the following:**

6 **[(“3) the term ‘property’ includes all**
7 **real and personal property.”.**

8 **[(b) RESTORATION OF THE COVERAGE OF**
9 **CHEMICAL WEAPONS.—Section 2332a of title 18,**
10 **United States Code, as amended by subsection**
11 **(a), is further amended—**

12 **[(1) in the section heading, by strik-**
13 **ing “certain”;**

14 **[(2) in subsection (a), by striking**
15 **“(other than a chemical weapon as that**
16 **term is defined in section 229F)”]; and**

17 **[(3) in subsection (b), by striking**
18 **“(other than a chemical weapon (as that**
19 **term is defined in section 229F))”.**

20 **[(c) EXPANSION OF CATEGORIES OF RE-**
21 **STRICTED PERSONS SUBJECT TO PROHIBITIONS**
22 **RELATING TO SELECT AGENTS.—Section**
23 **175b(d)(2) of title 18, United States Code, is**
24 **amended—**

25 **[(1) in subparagraph (G) by—**

1 **[(A) inserting “(i)” after “(G)”;**

2 **[(B) inserting “, or (ii) acts for or**
3 **on behalf of, or operates subject to**
4 **the direction or control of, a govern-**
5 **ment or official of a country de-**
6 **scribed in this subparagraph” after**
7 **“terrorism”; and**

8 **[(C) striking “or” after the semi-**
9 **colon.**

10 **[(2) in subparagraph (H) by striking**
11 **the period and inserting “; or”; and**

12 **[(3) by adding at the end the fol-**
13 **lowing new subparagraph:**

14 **[“(I) is a member of, acts for or on**
15 **behalf of, or operates subject to the**
16 **direction or control of, a terrorist or-**
17 **ganization as defined in section**
18 **212(a)(3)(B)(vi) of the Immigration**
19 **and Nationality Act (8 U.S.C.**
20 **1182(a)(3)(B)(vi)).”.**

21 **[(d) CONFORMING AMENDMENT TO REGULA-**
22 **TIONS.—**

23 **[(1) Section 175b(a)(1) of title 18,**
24 **United States Code, is amended by strik-**
25 **ing “as a select agent in Appendix A” and**

1 all that follows and inserting the fol-
2 lowing: “as a non-overlap or overlap se-
3 lect biological agent or toxin in sections
4 73.4 and 73.5 of title 42, Code of Federal
5 Regulations, pursuant to section 351A of
6 the Public Health Service Act, and is not
7 excluded under sections 73.4 and 73.5 or
8 exempted under section 73.6 of title 42,
9 Code of Federal Regulations.”.

10 [(2) The amendment made by para-
11 graph (1) shall take effect at the same
12 time that sections 73.4, 73.5, and 73.6 of
13 title 42, Code of Federal Regulations, be-
14 come effective.

15 [(e) ENHANCING PROSECUTION OF WEAPONS
16 OF MASS DESTRUCTION OFFENSES.—Section
17 1961(1)(B) of title 18, United States Code, is
18 amended by adding at the end the following:
19 “sections 175–178 (relating to biological weap-
20 ons), sections 229–229F (relating to chemical
21 weapons), section 831 (relating to nuclear ma-
22 terials),”.

1 [SEC. 2053. PARTICIPATION IN NUCLEAR AND WEAPONS OF
2 MASS DESTRUCTION THREATS TO THE
3 UNITED STATES.

4 [(a) Section 57(b) of the Atomic Energy
5 Act of 1954 (42 U.S.C. 2077(b)) is amended by
6 striking “in the production of any special nu-
7 clear material” and inserting “or participate
8 in the development or production of any spe-
9 cial nuclear material or atomic weapon”.

10 [(b) Title 18, United States Code, is
11 amended—

12 [(1) in the table of sections at the be-
13 ginning of chapter 39, by inserting after
14 the item relating to section 831 the fol-
15 lowing:

["832. Participation in nuclear and weapons of mass destruc-
tion threats to the United States.”;

16 [(2) by inserting after section 831 the
17 following:

18 [“§ 832. Participation in nuclear and weapons of
19 mass destruction threats to the United
20 States

21 [“(a) Whoever, within the United States or
22 subject to the jurisdiction of the United
23 States, willfully participates in or provides
24 material support or resources (as defined in

1 section 2339A) to a nuclear weapons program
2 or other weapons of mass destruction pro-
3 gram of a foreign terrorist power, or attempts
4 or conspires to do so, shall be imprisoned for
5 not more than 20 years.

6 [“(b) There is extraterritorial Federal ju-
7 risdiction over an offense under this section.

8 [“(c) Whoever without lawful authority
9 develops, possesses, or attempts or conspires
10 to develop or possess a radiological weapon,
11 or threatens to use or uses a radiological
12 weapon against any person within the United
13 States, or a national of the United States
14 while such national is outside the United
15 States or against any property that is owned,
16 leased, funded or used by the United States,
17 whether that property is within or outside the
18 United States, shall be imprisoned for any
19 term of years or for life, and if death results,
20 shall be punished by death or imprisoned for
21 any term of years or for life.

22 [“(d) As used in this section—

23 [“(1) ‘nuclear weapons program’
24 means a program or plan for the develop-

1 ment, acquisition, or production of any
2 nuclear weapon or weapons;

3 [“(2) ‘weapons of mass destruction
4 program’ means a program or plan for
5 the development, acquisition, or produc-
6 tion of any weapon or weapons of mass
7 destruction (as defined in section
8 2332a(c));

9 [“(3) ‘foreign terrorist power’ means a
10 terrorist organization designated under
11 section 219 of the Immigration and Na-
12 tionality Act, or a state sponsor of ter-
13 rorism designated under section 6(j) of
14 the Export Administration Act of 1979 or
15 section 620A of the Foreign Assistance
16 Act of 1961; and

17 [“(4) ‘nuclear weapon’ means any
18 weapon that contains or uses nuclear ma-
19 terial as defined in section 831(f)(1).”; and

20 [(3) in section 2332b(g)(5)(B)(i), by in-
21 serting after “nuclear materials),” the fol-
22 lowing: “832 (relating to participation in
23 nuclear and weapons of mass destruction
24 threats to the United States)”].

1 [SEC. 2054. PROLIFERATION OF WEAPONS OF MASS DE-
2 STRUCTION.

3 [(a) FINDINGS.—Consistent with the report
4 of the National Commission on Terrorist At-
5 tacks Upon the United States, Congress
6 makes the following findings:

7 [(1) Al Qaeda has tried to acquire or
8 make weapons of mass destruction since
9 1994 or earlier.

10 [(2) The United States doubtless
11 would be a prime target for use of any
12 such weapon by al Qaeda.

13 [(3) Although the United States Gov-
14 ernment has redoubled its international
15 commitments to supporting the programs
16 for Cooperative Threat Reduction and
17 other nonproliferation assistance pro-
18 grams, nonproliferation experts continue
19 to express deep concern about the United
20 States Government's commitment and ap-
21 proach to securing the weapons of mass
22 destruction and related highly dangerous
23 materials that are still scattered among
24 Russia and other countries of the former
25 Soviet Union.

1 **[(4) The cost of increased investment**
2 **in the prevention of proliferation of**
3 **weapons of mass destruction and related**
4 **dangerous materials is greatly out-**
5 **weighed by the potentially catastrophic**
6 **cost to the United States of use of weap-**
7 **ons of mass destruction or related dan-**
8 **gerous materials by the terrorists who**
9 **are so eager to acquire them.**

10 **[(b) SENSE OF CONGRESS.—It is the sense of**
11 **Congress that—**

12 **[(1) maximum effort to prevent the**
13 **proliferation of weapons of mass destruc-**
14 **tion, wherever such proliferation may**
15 **occur, is warranted; and**

16 **[(2) the programs of the United**
17 **States Government to prevent or counter**
18 **the proliferation of weapons of mass de-**
19 **struction, including the Proliferation Se-**
20 **curity Initiative, the programs for Coop-**
21 **erative Threat Reduction, and other non-**
22 **proliferation assistance programs, should**
23 **be expanded, improved, and better fund-**
24 **ed to address the global dimensions of**
25 **the proliferation threat.**

1 **[(c) REQUIREMENT FOR STRATEGY.—Not**
2 **later than 180 days after the date of the enact-**
3 **ment of this Act, the President shall submit to**
4 **Congress—**

5 **[(1) a strategy for expanding and**
6 **strengthening the Proliferation Security**
7 **Initiative, the programs for Cooperative**
8 **Threat Reduction, and other non-**
9 **proliferation assistance programs; and**

10 **[(2) an estimate of the funding nec-**
11 **essary to execute that strategy.**

12 **[(d) REPORT ON REFORMING THE COOPERA-**
13 **TIVE THREAT REDUCTION PROGRAM AND OTHER**
14 **NON-PROLIFERATION ASSISTANCE PROGRAMS.—**
15 **Not later than 180 days after the date of the**
16 **enactment of this Act, the President shall sub-**
17 **mit to Congress a report evaluating whether**
18 **the United States could more effectively ad-**
19 **dress the global threat of nuclear prolifera-**
20 **tion by—**

21 **[(1) establishing a central coordi-**
22 **nator for the programs for Cooperative**
23 **Threat Reduction;**

24 **[(2) eliminating the requirement that**
25 **the President spend no more than**

1 **\$50,000,000 annually on programs for Co-**
2 **operative Threat Reduction and other**
3 **non-proliferation assistance programs**
4 **carried out outside the former Soviet**
5 **Union; or**

6 **[(3) repealing the provisions of the**
7 **Soviet Nuclear Threat Reduction Act of**
8 **1991 (22 U.S.C. 2551 note) that place con-**
9 **ditions on assistance to the former Soviet**
10 **Union unrelated to bilateral cooperation**
11 **on weapons dismantlement.**

12 **[SEC. 2055. SENSE OF CONGRESS REGARDING INTER-**
13 **NATIONAL counterproliferation EFFORTS.**

14 **[It is the sense of Congress that the**
15 **United States should work with the inter-**
16 **national community to develop laws and an**
17 **international legal regime with universal ju-**
18 **risdiction to enable the interdiction of nu-**
19 **clear material and technology, and the cap-**
20 **ture, interdiction, and prosecution of individ-**
21 **uals or entities involved in the smuggling or**
22 **transfer of nuclear material or technology to**
23 **any state in the world where they do not fully**
24 **disclose the nature of their nuclear program.**

1 [SEC. 2056. REMOVAL OF POTENTIAL NUCLEAR WEAPONS
2 MATERIALS FROM VULNERABLE SITES
3 WORLDWIDE.

4 [(a) SENSE OF CONGRESS.—It is the sense of
5 Congress that removing potential nuclear
6 weapons materials from vulnerable sites
7 around the world would reduce the possi-
8 bility that such materials could fall into the
9 hands of al Qaeda or other groups and states
10 hostile to the United States, and should be a
11 top priority for achieving the national secu-
12 rity of the United States. Several actions may
13 be taken to reduce the risk that nuclear weap-
14 ons materials may end up in terrorist hands,
15 including—

16 [(1) transporting such materials from
17 such sites to secure facilities;

18 [(2) providing interim security up-
19 grades for such materials pending their
20 removal from their current sites;

21 [(3) managing such materials after
22 their arrival at secure facilities;

23 [(4) purchasing such materials;

24 [(5) converting such sites to the use
25 of low-enriched uranium fuels;

1 **[(6) assisting in the closure and de-**
2 **commissioning of such sites;**

3 **[(7) providing incentives to facilitate**
4 **the removal of such materials from vul-**
5 **nerable facilities;**

6 **[(8) arranging for the shipment of po-**
7 **tential nuclear weapons materials to the**
8 **United States, or to other countries will-**
9 **ing to accept such materials and able to**
10 **provide high levels of security for such**
11 **materials, and dispose of such materials,**
12 **in order to ensure that United States na-**
13 **tional security objectives are accom-**
14 **plished as quickly and effectively as pos-**
15 **sible; and**

16 **[(9) providing funds to upgrade secu-**
17 **rity and accounting at sites where poten-**
18 **tial nuclear weapons materials will re-**
19 **main for an extended period in order to**
20 **ensure that such materials are secure**
21 **against plausible potential threats, and**
22 **will remain so in the future.**

23 **[(b) REPORT.—**

24 **[(1) Not later than 30 days after the**
25 **submittal to Congress of the budget of**

1 the President for fiscal year 2006 pursu-
2 ant to section 1105(a) of title 31, United
3 States Code, the administration shall sub-
4 mit to Congress a report that includes
5 the following:

6 [(A) A list of the sites determined
7 to be of the highest priorities for re-
8 moval of potential nuclear weapons
9 materials, based on the quantity and
10 attractiveness of such materials at
11 such sites and the risk of theft or di-
12 version of such materials for weapons
13 purposes.

14 [(B) An inventory of all sites
15 worldwide where highly-enriched
16 uranium or separated plutonium is
17 located, including, to the extent prac-
18 ticable, a prioritized assessment of
19 the terrorism and proliferation risk
20 posed by such materials at each such
21 site, based on the quantity of such
22 materials, the attractiveness of such
23 materials for use in nuclear weapons,
24 the current level of security and ac-
25 counting for such materials, and the

1 level of threat (including the effects
2 of terrorist or criminal activity and
3 the pay and morale of personnel and
4 guards) in the country or region
5 where such sites are located.

6 [(C) A strategic plan, including
7 measurable milestones and metrics.

8 [(D) An estimate of the funds re-
9 quired to secure these materials.

10 [(E) The recommendations of the
11 Administration on whether any fur-
12 ther legislative actions or inter-
13 national agreements are necessary to
14 facilitate the accomplishment of the
15 objective.

16 [(2) The report shall be submitted in
17 unclassified form, but may include a clas-
18 sified annex.

19 [(c) **POTENTIAL NUCLEAR WEAPONS MATE-**
20 **RIAL DEFINED.**—In this section, the term “po-
21 **tential nuclear weapons material**” means plu-
22 **tonium, highly-enriched uranium, or other**
23 **material capable of sustaining an explosive**
24 **nuclear chain reaction, including irradiated**
25 **materials if the radiation field from such ma-**

1 materials is not sufficient to prevent the theft
2 and use of such materials for an explosive nu-
3 clear chain reaction.

4 **[Subtitle E—Money Laundering**
5 **and Terrorist Financing**

6 **[CHAPTER 1—FUNDING TO COMBAT FI-**
7 **NANCIAL CRIMES INCLUDING TER-**
8 **RORIST FINANCING**

9 **[SEC. 2101. ADDITIONAL AUTHORIZATION FOR FINCEN.**

10 **[Subsection (d) of section 310 of title 31,**
11 **United States Code, is amended—**

12 **[(1) by striking “APPROPRIATIONS.—**
13 **There are authorized” and inserting “AP-**
14 **PROPRIATIONS.—**

15 **[“(1) IN GENERAL.—There are author-**
16 **ized”; and**

17 **[(2) by adding at the end the fol-**
18 **lowing new paragraph:**

19 **[“(2) AUTHORIZATION FOR FUNDING KEY**
20 **TECHNOLOGICAL IMPROVEMENTS IN MISSION-**
21 **CRITICAL FINCEN SYSTEMS.—There are au-**
22 **thorized to be appropriated for fiscal**
23 **year 2005 the following amounts, which**
24 **are authorized to remain available until**
25 **expended:**

1 **[(A) BSA DIRECT.—For techno-**
2 **logical improvements to provide au-**
3 **thorized law enforcement and finan-**
4 **cial regulatory agencies with Web-**
5 **based access to FinCEN data, to fully**
6 **develop and implement the highly se-**
7 **cure network required under section**
8 **362 of Public Law 107–56 to expedite**
9 **the filing of, and reduce the filing**
10 **costs for, financial institution reports,**
11 **including suspicious activity reports,**
12 **collected by FinCEN under chapter**
13 **53 and related provisions of law, and**
14 **enable FinCEN to immediately alert**
15 **financial institutions about sus-**
16 **picious activities that warrant imme-**
17 **diate and enhanced scrutiny, and to**
18 **provide and upgrade advanced infor-**
19 **mation-sharing technologies to mate-**
20 **rially improve the Government’s abil-**
21 **ity to exploit the information in the**
22 **FinCEN databanks \$16,500,000.**

23 **[(B) ADVANCED ANALYTICAL TECH-**
24 **NOLOGIES.—To provide advanced ana-**
25 **lytical tools needed to ensure that the**

1 data collected by FinCEN under
2 chapter 53 and related provisions of
3 law are utilized fully and appro-
4 priately in safeguarding financial in-
5 stitutions and supporting the war on
6 terrorism, \$5,000,000.

7 [“(C) DATA NETWORKING MOD-
8 ERNIZATION.—To improve the tele-
9 communications infrastructure to
10 support the improved capabilities of
11 the FinCEN systems, \$3,000,000.

12 [“(D) ENHANCED COMPLIANCE CAPA-
13 BILITY.—To improve the effectiveness
14 of the Office of Compliance in
15 FinCEN, \$3,000,000.

16 [“(E) DETECTION AND PREVENTION
17 OF FINANCIAL CRIMES AND TERRORISM.—
18 To provide development of, and train-
19 ing in the use of, technology to detect
20 and prevent financial crimes and ter-
21 rorism within and without the United
22 States, \$8,000,000.”.

1 [SEC. 2102. MONEY LAUNDERING AND FINANCIAL CRIMES
2 STRATEGY REAUTHORIZATION.

3 [(a) PROGRAM.—Section 5341(a)(2) of title
4 31, United States Code, is amended by strik-
5 ing “and 2003,” and inserting “2003, and
6 2005,”.

7 [(b) REAUTHORIZATION OF APPROPRIA-
8 TIONS.—Section 5355 of title 31, United States
9 Code, is amended by adding at the end the fol-
10 lowing:

["Fiscal year 2004	\$15,000,000
["Fiscal year 2005	\$15,000,000".

11 [CHAPTER 2—ENFORCEMENT TOOLS TO
12 COMBAT FINANCIAL CRIMES INCLUD-
13 ING TERRORIST FINANCING

14 [Subchapter A—Money Laundering Abate-
15 ment and Financial Antiterrorism Tech-
16 nical Corrections

17 [SEC. 2111. SHORT TITLE.

18 [This subtitle may be cited as the “Money
19 Laundering Abatement and Financial
20 Antiterrorism Technical Corrections Act of
21 2004”.

1 [SEC. 2112. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–
2 56.

3 [(a) The heading of title III of Public Law
4 107–56 is amended to read as follows:

5 [“TITLE III—INTERNATIONAL
6 MONEY LAUNDERING ABATE-
7 MENT AND FINANCIAL
8 ANTITERRORISM ACT OF
9 2001”.

10 [(b) The table of contents of Public Law
11 107–56 is amended by striking the item relat-
12 ing to title III and inserting the following new
13 item:

[“TITLE III—INTERNATIONAL MONEY LAUNDERING
ABATEMENT AND FINANCIAL ANTITERRORISM ACT OF
2001”.

14 [(c) Section 302 of Public Law 107–56 is
15 amended—

16 [(1) in subsection (a)(4), by striking
17 the comma after “movement of criminal
18 funds”;

19 [(2) in subsection (b)(7), by inserting
20 “or types of accounts” after “classes of
21 international transactions”; and

22 [(3) in subsection (b)(10), by striking
23 “subchapters II and III” and inserting
24 “subchapter II”.

1 **[(d) Section 303(a) of Public Law 107–56 is**
2 **amended by striking “Anti-Terrorist Financ-**
3 **ing Act” and inserting “Financial**
4 **Antiterrorism Act”.**

5 **[(e) The heading for section 311 of Public**
6 **Law 107–56 is amended by striking “OR INTER-**
7 **NATIONAL TRANSACTIONS” and inserting “INTER-**
8 **NATIONAL TRANSACTIONS, OR TYPES OF AC-**
9 **COUNTS”.**

10 **[(f) Section 314 of Public Law 107–56 is**
11 **amended—**

12 **[(1) in paragraph (1)—**

13 **[(A) by inserting a comma after**
14 **“organizations engaged in”; and**

15 **[(B) by inserting a comma after**
16 **“credible evidence of engaging in”;**

17 **[(2) in paragraph (2)(A)—**

18 **[(A) by striking “and” after “non-**
19 **governmental organizations,”; and**

20 **[(B) by inserting a comma after**
21 **“unwittingly involved in such fi-**
22 **nances”;**

23 **[(3) in paragraph (3)(A)—**

1 **[(A) by striking “to monitor ac-**
2 **counts of” and inserting “monitor ac-**
3 **counts of,”; and**

4 **[(B) by striking the comma after**
5 **“organizations identified”; and**

6 **[(4) in paragraph (3)(B), by inserting**
7 **“financial” after “size, and nature of the”.**

8 **[(g) Section 321 of Public Law 107–56 is**
9 **amended by striking “5312(2)” and inserting**
10 **“5312(a)(2)”.**

11 **[(h) Section 325 of Public Law 107–56 is**
12 **amended by striking “as amended by section**
13 **202 of this title,” and inserting “as amended**
14 **by section 352,”.**

15 **[(i) Subsections (a)(2) and (b)(2) of section**
16 **327 of Public Law 107–56 are each amended**
17 **by inserting a period after “December 31,**
18 **2001” and striking all that follows through the**
19 **period at the end of each such subsection.**

20 **[(j) Section 356(c)(4) of Public Law 107–56**
21 **is amended by striking “or business or other**
22 **grantor trust” and inserting “, business trust,**
23 **or other grantor trust”.**

24 **[(k) Section 358(e) of Public Law 107–56 is**
25 **amended—**

1 **[(1) by striking “Section 123(a)” and**
2 **inserting “That portion of section 123(a)”;**

3 **[(2) by striking “is amended to read”**
4 **and inserting “that precedes paragraph**
5 **(1) of such section is amended to read”;**
6 **and**

7 **[(3) by striking “.” at the end of such**
8 **section and inserting “—’”.**

9 **[(l) Section 360 of Public Law 107–56 is**
10 **amended—**

11 **[(1) in subsection (a), by inserting**
12 **“the” after “utilization of the funds of”;**
13 **and**

14 **[(2) in subsection (b), by striking “at**
15 **such institutions” and inserting “at such**
16 **institution”.**

17 **[(m) Section 362(a)(1) of Public Law 107–**
18 **56 is amended by striking “subchapter II or**
19 **III” and inserting “subchapter II”.**

20 **[(n) Section 365 of Public Law 107–56 is**
21 **amended —**

22 **[(1) by redesignating the 2nd of the 2**
23 **subsections designated as subsection (c)**
24 **(relating to a clerical amendment) as sub-**
25 **section (d); and**

1 **[(2) by redesignating subsection (f) as**
2 **subsection (e).**

3 **[(o) Section 365(d) of Public Law 107–56**
4 **(as so redesignated by subsection (n) of this**
5 **section) is amended by striking “section 5332**
6 **(as added by section 112 of this title)” and in-**
7 **serting “section 5330”.**

8 **[SEC. 2113. TECHNICAL CORRECTIONS TO OTHER PROVI-**
9 **SIONS OF LAW.**

10 **[(a) Section 310(c) of title 31, United**
11 **States Code, is amended by striking “the Net-**
12 **work” each place such term appears and in-**
13 **serting “FinCEN”.**

14 **[(b) Section 5312(a)(3)(C) of title 31,**
15 **United States Code, is amended by striking**
16 **“sections 5333 and 5316” and inserting “sec-**
17 **tions 5316 and 5331”.**

18 **[(c) Section 5318(i) of title 31, United**
19 **States Code, is amended—**

20 **[(1) in paragraph (3)(B), by inserting**
21 **a comma after “foreign political figure”**
22 **the 2nd place such term appears; and**

23 **[(2) in the heading of paragraph (4),**
24 **by striking “DEFINITION” and inserting**
25 **“DEFINITIONS”.**

1 **[(d) Section 5318(k)(1)(B) of title 31,**
2 **United States Code, is amended by striking**
3 **“section 5318A(f)(1)(B)” and inserting “section**
4 **5318A(e)(1)(B)”.**

5 **[(e) The heading for section 5318A of title**
6 **31, United States Code, is amended to read as**
7 **follows:**

8 **["§ 5318A Special measures for jurisdictions, finan-**
9 **cial institutions, international trans-**
10 **actions, or types of accounts of primary**
11 **money laundering concern”.**

12 **[(f) Section 5318A of title 31, United States**
13 **Code, is amended—**

14 **[(1) in subsection (a)(4)(A), by strik-**
15 **ing “, as defined in section 3 of the Fed-**
16 **eral Deposit Insurance Act,” and insert-**
17 **ing “ (as defined in section 3 of the Fed-**
18 **eral Deposit Insurance Act)”;**

19 **[(2) in subsection (a)(4)(B)(iii), by**
20 **striking “or class of transactions” and in-**
21 **serting “class of transactions, or type of**
22 **account”;**

23 **[(3) in subsection (b)(1)(A), by strik-**
24 **ing “or class of transactions to be” and**

1 inserting “class of transactions, or type of
2 account to be”; and

3 [(4) in subsection (e)(3), by inserting
4 “or subsection (i) or (j) of section 5318”
5 after “identification of individuals under
6 this section”.

7 [(g) Section 5324(b) of title 31, United
8 States Code, is amended by striking “5333”
9 each place such term appears and inserting
10 “5331”.

11 [(h) Section 5332 of title 31, United States
12 Code, is amended—

13 [(1) in subsection (b)(2), by striking “,
14 subject to subsection (d) of this section”;
15 and

16 [(2) in subsection (c)(1), by striking “,
17 subject to subsection (d) of this section,”.

18 [(i) The table of sections for subchapter II
19 of chapter 53 of title 31, United States Code,
20 is amended by striking the item relating to
21 section 5318A and inserting the following new
22 item:

 [“5318A. Special measures for jurisdictions, financial institu-
 tions, international transactions, or types of ac-
 counts of primary money laundering concern.”.

23 [(j) Section 18(w)(3) of the Federal De-
24 posit Insurance Act (12 U.S.C. 1828(w)(3)) is

1 amended by inserting a comma after “agent of
2 such institution”.

3 [(k) Section 21(a)(2) of the Federal De-
4 posit Insurance Act (12 U.S.C. 1829b(a)(2)) is
5 amended by striking “recognizes that” and in-
6 serting “recognizing that”.

7 [(l) Section 626(e) of the Fair Credit Re-
8 porting Act (15 U.S.C. 1681v(e)) is amended by
9 striking “governmental agency” and inserting
10 “government agency”.

11 [SEC. 2114. REPEAL OF REVIEW.

12 [Title III of Public Law 107–56 is amended
13 by striking section 303 (31 U.S.C. 5311 note).

14 [SEC. 2115. EFFECTIVE DATE.

15 [The amendments made by this subtitle to
16 Public Law 107–56, the United States Code,
17 the Federal Deposit Insurance Act, and any
18 other provision of law shall take effect as if
19 such amendments had been included in Pub-
20 lic Law 107–56, as of the date of the enactment
21 of such Public Law, and no amendment made
22 by such Public Law that is inconsistent with
23 an amendment made by this subtitle shall be
24 deemed to have taken effect.

**[Subchapter B—Additional Enforcement
Tools**

[SEC. 2121. BUREAU OF ENGRAVING AND PRINTING SECURITY PRINTING.

[(a) PRODUCTION OF DOCUMENTS.—Section 5114(a) of title 31, United States Code (relating to engraving and printing currency and security documents), is amended—

[(1) by striking “(a) The Secretary of the Treasury” and inserting:

[“(a) AUTHORITY TO ENGRAVE AND PRINT.—

[“(1) IN GENERAL.—The Secretary of the Treasury”; and

[(2) by adding at the end the following new paragraphs:

[“(2) ENGRAVING AND PRINTING FOR OTHER GOVERNMENTS.—The Secretary of the Treasury may produce currency, postage stamps, and other security documents for foreign governments if—

[“(A) the Secretary of the Treasury determines that such production will not interfere with engraving and printing needs of the United States; and

1 **[(B) the Secretary of State deter-**
2 **mines that such production would be**
3 **consistent with the foreign policy of**
4 **the United States.**

5 **[(3) PROCUREMENT GUIDELINES.—Arti-**
6 **cles, material, and supplies procured for**
7 **use in the production of currency, post-**
8 **age stamps, and other security docu-**
9 **ments for foreign governments pursuant**
10 **to paragraph (2) shall be treated in the**
11 **same manner as articles, material, and**
12 **supplies procured for public use within**
13 **the United States for purposes of title III**
14 **of the Act of March 3, 1933 (41 U.S.C. 10a**
15 **et seq.; commonly referred to as the Buy**
16 **American Act).”.**

17 **[(b) REIMBURSEMENT.—Section 5143 of title**
18 **31, United States Code (relating to payment**
19 **for services of the Bureau of Engraving and**
20 **Printing), is amended—**

21 **[(1) in the first sentence, by inserting**
22 **“or to a foreign government under sec-**
23 **tion 5114” after “agency”;**

1 **[(2) in the second sentence, by insert-**
2 **ing “and other” after “including adminis-**
3 **trative”; and**

4 **[(3) in the last sentence, by inserting**
5 **“, and the Secretary shall take such ac-**
6 **tion, in coordination with the Secretary**
7 **of State, as may be appropriate to ensure**
8 **prompt payment by a foreign government**
9 **of any invoice or statement of account**
10 **submitted by the Secretary with respect**
11 **to services rendered under section 5114”**
12 **before the period at the end.**

13 **[SEC. 2122. CONDUCT IN AID OF COUNTERFEITING.**

14 **[(a) IN GENERAL.—Section 474(a) of title**
15 **18, United States Code, is amended by insert-**
16 **ing after the paragraph beginning “Whoever**
17 **has in his control, custody, or possession any**
18 **plate” the following:**

19 **["Whoever, with intent to defraud, has in**
20 **his custody, control, or possession any mate-**
21 **rial that can be used to make, alter, forge or**
22 **counterfeit any obligations and other securi-**
23 **ties of the United States or any part of such**
24 **securities and obligations, except under the**

1 authority of the Secretary of the Treasury;
2 or”.

3 **[(b) FOREIGN OBLIGATIONS AND SECURI-**
4 **TIES.—Section 481 of title 18, United States**
5 **Code, is amended by inserting after the para-**
6 **graph beginning “Whoever, with intent to de-**
7 **fraud” the following:**

8 **[[“Whoever, with intent to defraud, has in**
9 **his custody, control, or possession any mate-**
10 **rial that can be used to make, alter, forge or**
11 **counterfeit any obligation or other security of**
12 **any foreign government, bank or corporation;**
13 **or”.**

14 **[(c) COUNTERFEIT ACTS.—Section 470 of**
15 **title 18, United States Code, is amended by**
16 **striking “or 474” and inserting “474, or 474A”.**

17 **[(d) MATERIALS USED IN COUNTERFEITING.—**
18 **Section 474A(b) of title 18, United States Code,**
19 **is amended by striking “any essentially iden-**
20 **tical” and inserting “any thing or material**
21 **made after or in the similitude of any”.**

1 **[Subtitle F—Criminal History**
2 **Background Checks**

3 [SEC. 2141. SHORT TITLE.

4 **[This subtitle may be cited as the “Crimi-**
5 **nal History Access Means Protection of Infra-**
6 **structures and Our Nation Act”.**

7 [SEC. 2142. CRIMINAL HISTORY BACKGROUND CHECKS.

8 **[(a) IN GENERAL.—Section 534 of title 28,**
9 **United States Code, is amended by adding at**
10 **the end the following:**

11 **[“(f)(1) Under rules prescribed by the At-**
12 **torney General, the Attorney General shall,**
13 **within 60 days after the date of enactment,**
14 **initiate a pilot program to establish and main-**
15 **tain a system for providing to an employer**
16 **criminal history information that—**

17 **[“(A) is in the possession of the Attor-**
18 **ney General; and**

19 **[“(B) is requested by an employer as**
20 **part of an employee criminal history in-**
21 **vestigation that has been authorized by**
22 **the State where the employee works or**
23 **where the employer has their principal**
24 **place of business;**

1 in order to ensure that a prospective em-
2 ployee is suitable for certain employment po-
3 sitions.

4 **[(“(2) The Attorney General shall require**
5 **that an employer seeking criminal history in-**
6 **formation of an employee request such infor-**
7 **mation and submit fingerprints or other bio-**
8 **metric identifiers as approved by the Attor-**
9 **ney General to provide a positive and reliable**
10 **identification of such prospective employee.**

11 **[(“(3) The Director of the Federal Bureau**
12 **of Investigation may require an employer to**
13 **pay a reasonable fee for such information.**

14 **[(“(4) Upon receipt of fingerprints or other**
15 **biometric identifiers, the Attorney General**
16 **shall conduct an Integrated Fingerprint Iden-**
17 **tification System of the Federal Bureau of In-**
18 **vestigation (IAFIS) check and provide the re-**
19 **sults of such check to the requester.**

20 **[(“(5) As used in this subsection,**

21 **[(“(A) the term ‘criminal history infor-**
22 **mation’ and ‘criminal history records’ in-**
23 **cludes—**

24 **[(“(i) an identifying description of**
25 **the individual to whom it pertains;**

1 **[(“ii) notations of arrests, deten-**
2 **tions, indictments, or other formal**
3 **criminal charges pertaining to such**
4 **individual; and**

5 **[(“iii) any disposition to a nota-**
6 **tion revealed in subparagraph (B), in-**
7 **cluding acquittal, sentencing, correc-**
8 **tional supervision, or release.**

9 **[(“B) the term ‘Integrated Automated**
10 **Fingerprint Identification System of the**
11 **Federal Bureau of Investigation (IAFIS)’**
12 **means the national depository for finger-**
13 **print, biometric, and criminal history in-**
14 **formation, through which fingerprints**
15 **are processed electronically.**

16 **[(“(6) Nothing in this subsection shall pre-**
17 **clude the Attorney General from authorizing**
18 **or requiring criminal history record checks**
19 **on individuals employed or seeking employ-**
20 **ment in positions vital to the Nation’s critical**
21 **infrastructure or key resources as those**
22 **terms are defined in section 1016(e) of Public**
23 **Law 107–56 (42 U.S.C. 5195c(e)) and section**
24 **2(9) of the Homeland Security Act of 2002 (6**

1 U.S.C. 101(9)), if pursuant to a law or execu-
2 tive order.”.

3 **[(b) REPORT TO CONGRESS.—**

4 **[(1) IN GENERAL.—**Not later than 60
5 days after the conclusion of the pilot pro-
6 gram, the Attorney General shall report
7 to the appropriate committees of Con-
8 gress regarding all statutory require-
9 ments for criminal history record checks
10 that are required to be conducted by the
11 Department of Justice or any of its com-
12 ponents.

13 **[(2) IDENTIFICATION OF INFORMATION.—**
14 The Attorney General shall identify the
15 number of records requested, including
16 the type of information requested, usage
17 of different terms and definitions regard-
18 ing criminal history information, and the
19 variation in fees charged for such infor-
20 mation and who pays such fees.

21 **[(3) RECOMMENDATIONS.—**The Attor-
22 ney General shall make recommendations
23 for consolidating the existing procedures
24 into a unified procedure consistent with
25 that provided in section 534(f) of title 28,

1 **United States Code, as amended by this**
2 **subtitle. In making the recommendations**
3 **to Congress, the Attorney General shall**
4 **consider—**

5 **[(A) the effectiveness of utilizing**
6 **commercially available databases as a**
7 **supplement to IAFIS criminal history**
8 **information checks;**

9 **[(B) the effectiveness of utilizing**
10 **State databases as a supplement to**
11 **IAFIS criminal history information**
12 **checks;**

13 **[(C) any feasibility studies by the**
14 **Department of Justice of the FBI's re-**
15 **sources and structure to establish a**
16 **system to provide criminal history in-**
17 **formation; and**

18 **[(D) privacy rights and other em-**
19 **ployee protections to include em-**
20 **ployee consent, access to the records**
21 **used if employment was denied, an**
22 **appeal mechanism, and penalties for**
23 **misuse of the information.**

24 **[SEC. 2143. PROTECT ACT.**

25 **[Public Law 108-21 is amended—**

1 **[(1) in section 108(a)(2)(A) by striking**
2 **“an 18 month” and inserting “a 30-**
3 **month”]; and**

4 **[(2) in section 108(a)(3)(A) by striking**
5 **“an 18-month” and inserting “a 30-**
6 **month”].**

7 **[SEC. 2144. REVIEWS OF CRIMINAL RECORDS OF APPLI-**
8 **CANTS FOR PRIVATE SECURITY OFFICER EM-**
9 **PLOYMENT.**

10 **[(a) SHORT TITLE.—This section may be**
11 **cited as the “Private Security Officer Employ-**
12 **ment Authorization Act of 2004”.**

13 **[(b) FINDINGS.—Congress finds that—**

14 **[(1) employment of private security**
15 **officers in the United States is growing**
16 **rapidly;**

17 **[(2) private security officers function**
18 **as an adjunct to, but not a replacement**
19 **for, public law enforcement by helping to**
20 **reduce and prevent crime;**

21 **[(3) such private security officers**
22 **protect individuals, property, and propri-**
23 **etary information, and provide protec-**
24 **tion to such diverse operations as banks,**
25 **hospitals, research and development cen-**

1 **ters, manufacturing facilities, defense**
2 **and aerospace contractors, high tech-**
3 **nology businesses, nuclear power plants,**
4 **chemical companies, oil and gas refin-**
5 **eries, airports, communication facilities**
6 **and operations, office complexes, schools,**
7 **residential properties, apartment com-**
8 **plexes, gated communities, and others;**

9 **[(4) sworn law enforcement officers**
10 **provide significant services to the citi-**
11 **zens of the United States in its public**
12 **areas, and are supplemented by private**
13 **security officers;**

14 **[(5) the threat of additional terrorist**
15 **attacks requires cooperation between**
16 **public and private sectors and demands**
17 **professional, reliable, and responsible se-**
18 **curity officers for the protection of peo-**
19 **ple, facilities, and institutions;**

20 **[(6) the trend in the Nation toward**
21 **growth in such security services has ac-**
22 **celerated rapidly;**

23 **[(7) such growth makes available**
24 **more public sector law enforcement offi-**

1 **cers to combat serious and violent**
2 **crimes, including terrorism;**

3 **[(8) the American public deserves the**
4 **employment of qualified, well-trained pri-**
5 **ivate security personnel as an adjunct to**
6 **sworn law enforcement officers; and**

7 **[(9) private security officers and ap-**
8 **plicants for private security officer posi-**
9 **tions should be thoroughly screen and**
10 **trained.**

11 **[(c) DEFINITIONS.—In this Act:**

12 **[(1) EMPLOYEE.—The term “employee”**
13 **includes both a current employee and an**
14 **applicant for employment as a private se-**
15 **curity officer.**

16 **[(2) AUTHORIZED EMPLOYER.—The term**
17 **“authorized employer” means any person**
18 **that—**

19 **[(A) employs private security offi-**
20 **cers; and**

21 **[(B) is authorized by regulations**
22 **promulgated by the Attorney General**
23 **to request a criminal history record**
24 **information search of an employee**

1 **through a State identification bureau**
2 **pursuant to this section.**

3 **[(3) PRIVATE SECURITY OFFICER.—The**
4 **term “private security officer”—**

5 **[(A) means an individual other**
6 **than an employee of a Federal, State,**
7 **or local government, whose primary**
8 **duty is to perform security services,**
9 **full- or part-time, for consideration,**
10 **whether armed or unarmed and in**
11 **uniform or plain clothes (except for**
12 **services excluded from coverage**
13 **under this Act if the Attorney Gen-**
14 **eral determines by regulation that**
15 **such exclusion would serve the public**
16 **interest); but**

17 **[(B) does not include—**

18 **[(i) employees whose duties**
19 **are primarily internal audit or**
20 **credit functions;**

21 **[(ii) employees of electronic**
22 **security system companies acting**
23 **as technicians or monitors; or**

1 **[(iii) employees whose duties**
2 **primarily involve the secure**
3 **movement of prisoners.**

4 **[(4) SECURITY SERVICES.—The term**
5 **“security services” means acts to protect**
6 **people or property as defined by regula-**
7 **tions promulgated by the Attorney Gen-**
8 **eral.**

9 **[(5) STATE IDENTIFICATION BUREAU.—**
10 **The term “State identification bureau”**
11 **means the State entity designated by the**
12 **Attorney General for the submission and**
13 **receipt of criminal history record infor-**
14 **mation.**

15 **[(d) CRIMINAL HISTORY RECORD INFORMA-**
16 **TION SEARCH.—**

17 **[(1) IN GENERAL.—**

18 **[(A) SUBMISSION OF FINGER-**
19 **PRINTS.—An authorized employer may**
20 **submit to the State identification bu-**
21 **reau of a participating State, finger-**
22 **prints or other means of positive**
23 **identification, as determined by the**
24 **Attorney General, of an employee of**
25 **such employer for purposes of a**

1 **criminal history record information**
2 **search pursuant to this Act.**

3 **[(B) EMPLOYEE RIGHTS.—**

4 **[(i) PERMISSION.—An author-**
5 **ized employer shall obtain writ-**
6 **ten consent from an employee to**
7 **submit to the State identification**
8 **bureau of a participating State**
9 **the request to search the criminal**
10 **history record information of the**
11 **employee under this Act.**

12 **[(ii) ACCESS.—An authorized**
13 **employer shall provide to the em-**
14 **ployee confidential access to any**
15 **information relating to the em-**
16 **ployee received by the authorized**
17 **employer pursuant to this Act.**

18 **[(C) PROVIDING INFORMATION TO**
19 **THE STATE IDENTIFICATION BUREAU.—**
20 **Upon receipt of a request for a crimi-**
21 **nal history record information search**
22 **from an authorized employer pursu-**
23 **ant to this Act, submitted through the**
24 **State identification bureau of a par-**

1 **ticipating State, the Attorney General**
2 **shall—**

3 **[(i) search the appropriate**
4 **records of the Criminal Justice**
5 **Information Services Division of**
6 **the Federal Bureau of Investiga-**
7 **tion; and**

8 **[(ii) promptly provide any re-**
9 **sulting identification and crimi-**
10 **nal history record information to**
11 **the submitting State identifica-**
12 **tion bureau requesting the infor-**
13 **mation.**

14 **[(D) USE OF INFORMATION.—**

15 **[(i) IN GENERAL.—Upon receipt**
16 **of the criminal history record in-**
17 **formation from the Attorney Gen-**
18 **eral by the State identification**
19 **bureau, the information shall be**
20 **used only as provided in clause**
21 **(ii).**

22 **[(ii) TERMS.—In the case of—**

23 **[(I) a participating State**
24 **that has no State standards**
25 **for qualification to be a pri-**

1 vate security officer, the State
2 shall notify an authorized em-
3 ployer as to the fact of wheth-
4 er an employee has been—

5 [(aa) convicted of a
6 felony, an offense involv-
7 ing dishonesty or a false
8 statement if the convic-
9 tion occurred during the
10 previous 10 years, or an
11 offense involving the use
12 or attempted use of phys-
13 ical force against the per-
14 son of another if the con-
15 viction occurred during
16 the previous 10 years; or

17 [(bb) charged with a
18 criminal felony for which
19 there has been no resolu-
20 tion during the preceding
21 365 days; or

22 [(II) a participating State
23 that has State standards for
24 qualification to be a private
25 security officer, the State

1 shall use the information re-
2 ceived pursuant to this Act in
3 applying the State standards
4 and shall only notify the em-
5 ployer of the results of the ap-
6 plication of the State stand-
7 ards.

8 [(E) FREQUENCY OF REQUESTS.—An
9 authorized employer may request a
10 criminal history record information
11 search for an employee only once
12 every 12 months of continuous em-
13 ployment by that employee unless the
14 authorized employer has good cause
15 to submit additional requests.

16 [(2) REGULATIONS.—Not later than 180
17 days after the date of enactment of this
18 Act, the Attorney General shall issue such
19 final or interim final regulations as may
20 be necessary to carry out this Act, includ-
21 ing—

22 [(A) measures relating to the se-
23 curity, confidentiality, accuracy, use,
24 submission, dissemination, destruc-

tion of information and audits, and
record keeping;

[(B) standards for qualification as
an authorized employer; and

[(C) the imposition of reasonable
fees necessary for conducting the
background checks.

[(3) CRIMINAL PENALTIES FOR USE OF
INFORMATION.—Whoever knowingly and
intentionally uses any information ob-
tained pursuant to this Act other than for
the purpose of determining the suit-
ability of an individual for employment
as a private security officer shall be fined
under title 18, United States Code, or im-
prisoned for not more than 2 years, or
both.

[(4) USER FEES.—

[(A) IN GENERAL.—The Director of
the Federal Bureau of Investigation
may—

[(i) collect fees to process
background checks provided for
by this Act; and

1 **[(ii) establish such fees at a**
2 **level to include an additional**
3 **amount to defray expenses for the**
4 **automation of fingerprint identi-**
5 **fication and criminal justice in-**
6 **formation services and associated**
7 **costs.**

8 **[(B) LIMITATIONS.—Any fee col-**
9 **lected under this subsection—**

10 **[(i) shall, consistent with Pub-**
11 **lic Law 101–515 and Public Law**
12 **104–99, be credited to the appro-**
13 **priation to be used for salaries**
14 **and other expenses incurred**
15 **through providing the services**
16 **described in such Public Laws**
17 **and in subparagraph (A);**

18 **[(ii) shall be available for ex-**
19 **penditure only to pay the costs of**
20 **such activities and services; and**

21 **[(iii) shall remain available**
22 **until expended.**

23 **[(C) STATE COSTS.—Nothing in this**
24 **Act shall be construed as restricting**
25 **the right of a State to assess a reason-**

1 able fee on an authorized employer
2 for the costs to the State of admin-
3 istering this Act.

4 **[(5) STATE OPT OUT.—A State may de-**
5 **cline to participate in the background**
6 **check system authorized by this Act by**
7 **enacting a law or issuing an order by the**
8 **Governor (if consistent with State law)**
9 **providing that the State is declining to**
10 **participate pursuant to this subsection.**

11 **[SEC. 2145. TASK FORCE ON CLEARINGHOUSE FOR IAFIS**
12 **CRIMINAL HISTORY RECORDS.**

13 **[Not later than 60 days after the date of**
14 **enactment of this Act, the Attorney General**
15 **shall establish a task force to examine the es-**
16 **tablishment of a national clearinghouse to**
17 **process IAFIS criminal history record re-**
18 **quests received directly from employers pro-**
19 **viding private security guard services with**
20 **respect to critical infrastructure (as defined**
21 **in section 1016(e) of Public Law 107–56 (42**
22 **U.S.C. 5195c(e))) and other private security**
23 **guard services. Members of this task force**
24 **shall include representatives of the Depart-**
25 **ment of Justice and the Federal Bureau of In-**

1 vestigation, in consultation with representa-
2 tives of the security guard industry. Not later
3 than 90 days after the establishment of the
4 task force, the Attorney General shall submit
5 to Congress a report outlining how the na-
6 tional clearinghouse shall be established, and
7 specifying a date certain (within one year of
8 the enactment of this Act) by which the na-
9 tional clearinghouse will begin operations.

10 **[Subtitle G—Protection of United**
11 **States Aviation System From**
12 **Terrorist Attacks**

13 **[SEC. 2171. PROVISION FOR THE USE OF BIOMETRIC OR**
14 **OTHER TECHNOLOGY.**

15 **[(a) USE OF BIOMETRIC TECHNOLOGY.—Sec-**
16 **tion 44903(h) of title 49, United States Code,**
17 **is amended—**

18 **[(1) in paragraph (4)(E) by striking**
19 **“may provide for” and inserting “shall**
20 **issue, not later than 120 days after the**
21 **date of enactment of paragraph (5), guid-**
22 **ance for”; and**

23 **[(2) by adding at the end the fol-**
24 **lowing:**

1 **[(5) USE OF BIOMETRIC TECHNOLOGY IN**
2 **AIRPORT ACCESS CONTROL SYSTEMS.—In**
3 **issuing guidance under paragraph (4)(E),**
4 **the Assistant Secretary of Homeland Se-**
5 **curity (Transportation Security Adminis-**
6 **tration), in consultation with the Attor-**
7 **ney General, representatives of the avia-**
8 **tion industry, the biometrics industry,**
9 **and the National Institute of Standards**
10 **and Technology, shall establish, at a min-**
11 **imum—**

12 **[(A) comprehensive technical**
13 **and operational system requirements**
14 **and performance standards for the**
15 **use of biometrics in airport access**
16 **control systems (including airport pe-**
17 **rimeter access control systems) to en-**
18 **sure that the biometric systems are**
19 **effective, reliable, and secure;**

20 **[(B) a list of products and ven-**
21 **dors that meet such requirements**
22 **and standards;**

23 **[(C) procedures for imple-**
24 **menting biometric systems—**

1 **[(i) to ensure that individ-**
2 **uals do not use an assumed iden-**
3 **tity to enroll in a biometric sys-**
4 **tem; and**

5 **[(ii) to resolve failures to en-**
6 **roll, false matches, and false non-**
7 **matches; and**

8 **[(D) best practices for incor-**
9 **porating biometric technology into**
10 **airport access control systems in the**
11 **most effective manner, including a**
12 **process to best utilize existing airport**
13 **access control systems, facilities, and**
14 **equipment and existing data net-**
15 **works connecting airports.**

16 **[(6) USE OF BIOMETRIC TECHNOLOGY**
17 **FOR LAW ENFORCEMENT OFFICER TRAVEL.—**

18 **[(A) IN GENERAL.—Not later than**
19 **120 days after the date of enactment**
20 **of this paragraph, the Assistant Sec-**
21 **retary in consultation with the Attor-**
22 **ney General shall—**

23 **[(i) establish a law enforce-**
24 **ment officer travel credential that**
25 **incorporates biometrics and is**

1 uniform across all Federal, State,
2 and local government law en-
3 forcement agencies;

4 [“(ii) establish a process by
5 which the travel credential will
6 be used to verify the identity of a
7 Federal, State, or local govern-
8 ment law enforcement officer
9 seeking to carry a weapon on
10 board an aircraft, without unnec-
11 essarily disclosing to the public
12 that the individual is a law en-
13 forcement officer;

14 [“(iii) establish procedures—

15 [“(I) to ensure that only
16 Federal, State, and local gov-
17 ernment law enforcement offi-
18 cers are issued the travel cre-
19 dential;

20 [“(II) to resolve failures to
21 enroll, false matches, and
22 false non-matches relating to
23 use of the travel credential;
24 and

1 **[(“III) to invalidate any**
2 **travel credential that is lost,**
3 **stolen, or no longer author-**
4 **ized for use;**

5 **[(“iv) begin issuance of the**
6 **travel credential to each Federal,**
7 **State, and local government law**
8 **enforcement officer authorized by**
9 **the Assistant Secretary to carry a**
10 **weapon on board an aircraft; and**

11 **[(“v) take such other actions**
12 **with respect to the travel creden-**
13 **tial as the Secretary considers ap-**
14 **propriate.**

15 **[(“B) FUNDING.—There are author-**
16 **ized to be appropriated such sums as**
17 **may be necessary to carry out this**
18 **paragraph.**

19 **[(“7) DEFINITIONS.—In this subsection,**
20 **the following definitions apply:**

21 **[(“A) BIOMETRIC INFORMATION.—**
22 **The term ‘biometric information’**
23 **means the distinct physical or behav-**
24 **ioral characteristics that are used for**

1 **identification, or verification of the**
2 **identity, of an individual.**

3 **[(B) BIOMETRICS.—The term ‘bio-**
4 **metrics’ means a technology that en-**
5 **ables the automated identification, or**
6 **verification of the identity, of an indi-**
7 **vidual based on biometric informa-**
8 **tion.**

9 **[(C) FAILURE TO ENROLL.—The**
10 **term ‘failure to enroll’ means the in-**
11 **ability of an individual to enroll in a**
12 **biometric system due to an insuffi-**
13 **ciently distinctive biometric sample,**
14 **the lack of a body part necessary to**
15 **provide the biometric sample, a sys-**
16 **tem design that makes it difficult to**
17 **provide consistent biometric informa-**
18 **tion, or other factors.**

19 **[(D) FALSE MATCH.—The term**
20 **‘false match’ means the incorrect**
21 **matching of one individual’s biomet-**
22 **ric information to another individ-**
23 **ual’s biometric information by a bio-**
24 **metric system.**

1 **[(E) FALSE NON-MATCH.—The term**
2 **‘false non-match’ means the rejection**
3 **of a valid identity by a biometric sys-**
4 **tem.**

5 **[(F) SECURE AREA OF AN AIR-**
6 **PORT.—The term ‘secure area of an**
7 **airport’ means the sterile area and**
8 **the Secure Identification Display**
9 **Area of an airport (as such terms are**
10 **defined in section 1540.5 of title 49,**
11 **Code of Federal Regulations, or any**
12 **successor regulation to such sec-**
13 **tion).”.**

14 **[(b) FUNDING FOR USE OF BIOMETRIC TECH-**
15 **NOLOGY IN AIRPORT ACCESS CONTROL SYS-**
16 **TEMS.—**

17 **[(1) GRANT AUTHORITY.—Section**
18 **44923(a)(4) of title 49, United States Code,**
19 **is amended—**

20 **[(A) by striking “and” at the end**
21 **of paragraph (3);**

22 **[(B) by redesignating paragraph**
23 **(4) as paragraph (5); and**

24 **[(C) by inserting after paragraph**
25 **(3) the following:**

1 **[(4) for projects to implement bio-**
2 **metric technologies in accordance with**
3 **guidance issued under section**
4 **44903(h)(4)(E); and”.**

5 **[(2) AUTHORIZATION OF APPROPRIA-**
6 **TIONS.—Section 44923(i)(1) of such title is**
7 **amended by striking “\$250,000,000 for**
8 **each of fiscal years 2004 through 2007”**
9 **and inserting “\$250,000,000 for fiscal year**
10 **2004, \$345,000,000 for fiscal year 2005, and**
11 **\$250,000,000 for each of fiscal years 2006**
12 **and 2007”.**

13 **[SEC. 2172. TRANSPORTATION SECURITY STRATEGIC PLAN-**
14 **NING.**

15 **[Section 44904 of title 49, United States**
16 **Code, is amended—**

17 **[(1) by redesignating subsection (c)**
18 **as subsection (e); and**

19 **[(2) by inserting after subsection (b)**
20 **the following:**

21 **[(c) TRANSPORTATION SECURITY STRATEGIC**
22 **PLANNING.—**

23 **[(1) IN GENERAL.—The Secretary of**
24 **Homeland Security in consultation with**
25 **the Attorney General, shall prepare and**

1 **update, as needed, a transportation sec-**
2 **tor specific plan and transportation**
3 **modal security plans in accordance with**
4 **this section.**

5 **[(2) CONTENTS.—At a minimum, the**
6 **modal security plan for aviation pre-**
7 **pared under paragraph (1) shall—**

8 **[(A) set risk-based priorities for**
9 **defending aviation assets;**

10 **[(B) select the most practical**
11 **and cost-effective methods for de-**
12 **fending aviation assets;**

13 **[(C) assign roles and missions to**
14 **Federal, State, regional, and local au-**
15 **thorities and to stakeholders;**

16 **[(D) establish a damage mitiga-**
17 **tion and recovery plan for the avia-**
18 **tion system in the event of a terrorist**
19 **attack; and**

20 **[(E) include a threat matrix doc-**
21 **ument that outlines each threat to**
22 **the United States civil aviation sys-**
23 **tem and the corresponding layers of**
24 **security in place to address such**
25 **threat.**

1 **[(3) REPORTS.—Not later than 180**
2 **days after the date of enactment of the**
3 **subsection and annually thereafter, the**
4 **Secretary shall submit to the Committee**
5 **on Transportation and Infrastructure**
6 **and the Committee on the Judiciary of**
7 **the House of Representatives and the**
8 **Committee on Commerce, Science, and**
9 **Transportation of the Senate a report**
10 **containing the plans prepared under**
11 **paragraph (1), including any updates to**
12 **the plans. The report may be submitted**
13 **in a classified format.**

14 **[(d) OPERATIONAL CRITERIA.—Not later**
15 **than 90 days after the date of submission of**
16 **the report under subsection (c)(3), the Assist-**
17 **ant Secretary of Homeland Security (Trans-**
18 **portation Security Administration) in con-**
19 **sultation with the Attorney General shall**
20 **issue operational criteria to protect airport**
21 **infrastructure and operations against the**
22 **threats identified in the plans prepared under**
23 **subsection (c)(1) and shall approve best prac-**
24 **tices guidelines for airport assets.”.**

1 [SEC. 2173. NEXT GENERATION AIRLINE PASSENGER
2 PRESCREENING.

3 [(a) IN GENERAL.—Section 44903(j)(2) of
4 title 49, United States Code, is amended by
5 adding at the end the following:

6 [“(C) NEXT GENERATION AIRLINE
7 PASSENGER PRESCREENING.—

8 [“(i) COMMENCEMENT OF TEST-
9 ING.—Not later than November 1,
10 2004, the Assistant Secretary of
11 Homeland Security (Transpor-
12 tation Security Administration),
13 or the designee of the Assistant
14 Secretary, shall commence testing
15 of a next generation passenger
16 prescreening system that will
17 allow the Department of Home-
18 land Security to assume the per-
19 formance of comparing passenger
20 name records to the automatic se-
21 lectee and no fly lists, utilizing all
22 appropriate records in the con-
23 solidated and integrated terrorist
24 watchlist maintained by the Fed-
25 eral Government.

1 **[(“ii) ASSUMPTION OF FUNC-**
2 **TION.—Not later than 180 days**
3 **after completion of testing under**
4 **clause (i), the Assistant Secretary,**
5 **or the designee of the Assistant**
6 **Secretary, shall assume the per-**
7 **formance of the passenger**
8 **prescreening function of com-**
9 **paring passenger name records to**
10 **the automatic selectee and no fly**
11 **lists and utilize all appropriate**
12 **records in the consolidated and**
13 **integrated terrorist watchlist**
14 **maintained by the Federal Gov-**
15 **ernment in performing that func-**
16 **tion.**

17 **[(“iii) REQUIREMENTS.—In as-**
18 **suming performance of the func-**
19 **tion under clause (i), the Assist-**
20 **ant Secretary shall—**

21 **[(“I) establish a procedure**
22 **to enable airline passengers,**
23 **who are delayed or prohibited**
24 **from boarding a flight be-**
25 **cause the next generation**

1 passenger prescreening sys-
2 tem determined that they
3 might pose a security threat,
4 to appeal such determination
5 and correct information con-
6 tained in the system;

7 [“(II) ensure that Federal
8 Government databases that
9 will be used to establish the
10 identity of a passenger under
11 the system will not produce a
12 large number of false
13 positives;

14 [“(III) establish an inter-
15 nal oversight board to oversee
16 and monitor the manner in
17 which the system is being im-
18 plemented;

19 [“(IV) establish sufficient
20 operational safeguards to re-
21 duce the opportunities for
22 abuse;

23 [“(V) implement substan-
24 tial security measures to pro-

1 **tect the system from unau-**
2 **thorized access;**

3 **[(“VI) adopt policies es-**
4 **tablishing effective oversight**
5 **of the use and operation of**
6 **the system; and**

7 **[(“VII) ensure that there**
8 **are no specific privacy con-**
9 **cerns with the technological**
10 **architecture of the system.**

11 **[(“iv) PASSENGER NAME**
12 **RECORDS.—Not later than 60 days**
13 **after the completion of the testing**
14 **of the next generation passenger**
15 **prescreening system, the Assist-**
16 **ant Secretary shall require air**
17 **carriers to supply to the Assistant**
18 **Secretary the passenger name**
19 **records needed to begin imple-**
20 **menting the next generation pas-**
21 **senger prescreening system.**

22 **[(“D) SCREENING OF EMPLOYEES**
23 **AGAINST WATCHLIST.—The Assistant**
24 **Secretary of Homeland Security**
25 **(Transportation Security Administra-**

tion), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

[(i) being certificated by the Federal Aviation Administration;

[(ii) being issued a credential for access to the secure area of an airport; or

[(iii) being issued a credential for access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

[(E) APPEAL PROCEDURES.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under sub-

1 paragraph (D) to appeal the deter-
2 mination and correct any erroneous
3 information.

4 [(F) DEFINITION.—In this para-
5 graph, the term ‘secure area of an air-
6 port’ means the sterile area and the
7 Secure Identification Display Area of
8 an airport (as such terms are defined
9 in section 1540.5 of title 49, Code of
10 Federal Regulations, or any successor
11 regulation to such section).”.

12 [(b) GAO REPORT.—

13 [(1) IN GENERAL.—Not later than 90
14 days after the date on which the Assist-
15 ant Secretary of Homeland Security
16 (Transportation Security Administration)
17 assumes performance of the passenger
18 prescreening function under section
19 44903(j)(2)(C)(ii) of title 49, United States
20 Code, the Comptroller General shall sub-
21 mit to the appropriate congressional
22 committees a report on the assumption of
23 such function. The report may be sub-
24 mitted in a classified format.

1 **[(2) CONTENTS.—The report under**
2 **paragraph (1) shall address—**

3 **[(A) whether a system exists in**
4 **the next generation passenger**
5 **prescreening system whereby avia-**
6 **tion passengers, determined to pose a**
7 **threat and either delayed or prohib-**
8 **ited from boarding their scheduled**
9 **flights by the Transportation Security**
10 **Administration, may appeal such a**
11 **decision and correct erroneous infor-**
12 **mation;**

13 **[(B) the sufficiency of identifying**
14 **information contained in passenger**
15 **name records and any government**
16 **databases for ensuring that a large**
17 **number of false positives will not re-**
18 **sult under the next generation pas-**
19 **senger prescreening system in a sig-**
20 **nificant number of passengers being**
21 **treated as a threat mistakenly or in**
22 **security resources being diverted;**

23 **[(C) whether the Transportation**
24 **Security Administration stress tested**

1 the next generation passenger
2 prescreening system;

3 [(D) whether an internal over-
4 sight board has been established in
5 the Department of Homeland Secu-
6 rity to monitor the next generation
7 passenger prescreening system;

8 [(E) whether sufficient oper-
9 ational safeguards have been estab-
10 lished to prevent the opportunities
11 for abuse of the system;

12 [(F) whether substantial security
13 measures are in place to protect the
14 passenger prescreening database
15 from unauthorized access;

16 [(G) whether policies have been
17 adopted for the effective oversight of
18 the use and operation of the system;

19 [(H) whether specific privacy con-
20 cerns still exist with the system; and

21 [(I) whether appropriate life
22 cycle cost estimates have been devel-
23 oped, and a benefit and cost analysis
24 has been performed, for the system.

1 [SEC. 2174. DEPLOYMENT AND USE OF EXPLOSIVE DETEC-
2 TION EQUIPMENT AT AIRPORT SCREENING
3 CHECKPOINTS.

4 [(a) NONMETALLIC WEAPONS AND EXPLO-
5 SIVES.—In order to improve security, the As-
6 sistant Secretary of Homeland Security
7 (Transportation Security Administration)
8 shall give priority to developing, testing, im-
9 proving, and deploying technology at screen-
10 ing checkpoints at airports that will detect
11 nonmetallic weapons and explosives on the
12 person of individuals, in their clothing, or in
13 their carry-on baggage or personal property
14 and shall ensure that the equipment alone, or
15 as part of an integrated system, can detect
16 under realistic operating conditions the types
17 of nonmetallic weapons and explosives that
18 terrorists would likely try to smuggle aboard
19 an air carrier aircraft.

20 [(b) STRATEGIC PLAN FOR DEPLOYMENT AND
21 USE OF EXPLOSIVE DETECTION EQUIPMENT AT
22 AIRPORT SCREENING CHECKPOINTS.—

23 [(1) IN GENERAL.—Not later than 90
24 days after the date of enactment of this
25 Act, the Assistant Secretary shall trans-
26 mit to the appropriate congressional

1 committees a strategic plan to promote
2 the optimal utilization and deployment of
3 explosive detection systems at airports to
4 screen individuals and their carry-on
5 baggage or personal property, including
6 walk-through explosive detection portals,
7 document scanners, shoe scanners, and
8 any other explosive detection equipment
9 for use at a screening checkpoint. The
10 plan may be transmitted in a classified
11 format.

12 [(2) CONTENTS.—The strategic plan
13 shall include descriptions of the oper-
14 ational applications of explosive detec-
15 tion equipment at airport screening
16 checkpoints, a deployment schedule and
17 quantities of equipment needed to imple-
18 ment the plan, and funding needs for im-
19 plementation of the plan, including a fi-
20 nancing plan that provides for leveraging
21 non-Federal funding.

1 [SEC. 2175. PILOT PROGRAM TO EVALUATE USE OF BLAST-
2 RESISTANT CARGO AND BAGGAGE CON-
3 TAINERS.

4 [(a) IN GENERAL.—Beginning not later
5 than 180 days after the date of enactment of
6 this Act, the Assistant Secretary of Homeland
7 Security (Transportation Security Adminis-
8 tration) shall carry out a pilot program to
9 evaluate the use of blast-resistant containers
10 for cargo and baggage on passenger aircraft
11 to minimize the potential effects of detonation
12 of an explosive device.

13 [(b) INCENTIVES FOR PARTICIPATION IN
14 PILOT PROGRAM.—

15 [(1) IN GENERAL.—As part of the pilot
16 program, the Assistant Secretary shall
17 provide incentives to air carriers to vol-
18 unteer to test the use of blast-resistant
19 containers for cargo and baggage on pas-
20 senger aircraft.

21 [(2) APPLICATIONS.—To volunteer to
22 participate in the incentive program, an
23 air carrier shall submit to the Assistant
24 Secretary an application that is in such
25 form and contains such information as
26 the Assistant Secretary requires.

1 **[(3) TYPES OF ASSISTANCE.—Assistance**
2 **provided by the Assistant Secretary to air**
3 **carriers that volunteer to participate in**
4 **the pilot program shall include the use of**
5 **blast-resistant containers and financial**
6 **assistance to cover increased costs to the**
7 **carriers associated with the use and**
8 **maintenance of the containers, including**
9 **increased fuel costs.**

10 **[(c) REPORT.—Not later than one year**
11 **after the date of enactment of this Act, the As-**
12 **sistant Secretary shall submit to appropriate**
13 **congressional committees a report on the re-**
14 **sults of the pilot program.**

15 **[(d) AUTHORIZATION OF APPROPRIATIONS.—**
16 **There are authorized to be appropriated to**
17 **carry out this section \$2,000,000. Such sums**
18 **shall remain available until expended.**

19 **[SEC. 2176. AIR CARGO SCREENING TECHNOLOGY.**

20 **[The Transportation Security Administra-**
21 **tion shall develop technology to better iden-**
22 **tify, track, and screen air cargo.**

1 [SEC. 2177. AIRPORT CHECKPOINT SCREENING EXPLOSIVE
2 DETECTION.

3 [Section 44940 of title 49, United States
4 Code, is amended by adding at the end the fol-
5 lowing:

6 [“(i) CHECKPOINT SCREENING SECURITY
7 FUND.—

8 [“(1) ESTABLISHMENT.—There is estab-
9 lished in the Department of Homeland
10 Security a fund to be known as the
11 ‘Checkpoint Screening Security Fund’.

12 [“(2) DEPOSITS.—In each of fiscal
13 years 2005 and 2006, after amounts are
14 made available under section 44923(h),
15 the next \$30,000,000 derived from fees re-
16 ceived under subsection (a)(1) shall be
17 available to be deposited in the Fund.

18 [“(3) FEES.—The Secretary of Home-
19 land Security shall impose the fee author-
20 ized by subsection (a)(1) so as to collect
21 at least \$30,000,000 in each of fiscal years
22 2005 and 2006 for deposit into the Fund.

23 [“(4) AVAILABILITY OF AMOUNTS.—
24 Amounts in the Fund shall be available
25 for the purchase, deployment, and instal-
26 lation of equipment to improve the abil-

1 **ity of security screening personnel at**
2 **screening checkpoints to detect explo-**
3 **sives.”.**

4 **[SEC. 2178. NEXT GENERATION SECURITY CHECKPOINT.**

5 **[(a) PILOT PROGRAM.—The Transportation**
6 **Security Administration shall develop, not**
7 **later than 120 days after the date of enact-**
8 **ment of this Act, and conduct a pilot program**
9 **to test, integrate, and deploy next generation**
10 **security checkpoint screening technology at**
11 **not less than 5 airports in the United States.**

12 **[(b) HUMAN FACTOR STUDIES.— The Admin-**
13 **istration shall conduct human factors studies**
14 **to improve screener performance as part of**
15 **the pilot program under subsection (a).**

16 **[SEC. 2179. PENALTY FOR FAILURE TO SECURE COCKPIT**
17 **DOOR.**

18 **[(a) CIVIL PENALTY.—Section 46301(a) of**
19 **title 49, United States Code, is amended by**
20 **adding at the end the following:**

21 **[“(6) PENALTY FOR FAILURE TO SECURE**
22 **FLIGHT DECK DOOR.—Any person holding a**
23 **part 119 certificate under part of title 14,**
24 **Code of Federal Regulations, is liable to**
25 **the Government for a civil penalty of not**

1 more than \$25,000 for each violation, by
2 the pilot in command of an aircraft
3 owned or operated by such person, of any
4 Federal regulation that requires that the
5 flight deck door be closed and locked
6 when the aircraft is being operated.”.

7 **[(b) TECHNICAL CORRECTIONS.—**

8 **[(1) COMPROMISE AND SETOFF FOR**
9 **FALSE INFORMATION.—**Section 46302(b) of
10 such title is amended by striking “Sec-
11 retary of Transportation” and inserting
12 “Secretary of the Department of Home-
13 land Security and, for a violation relating
14 to section 46504, the Secretary of Trans-
15 portation,”.

16 **[(2) CARRYING A WEAPON.—**Section
17 46303 of such title is amended—

18 **[(A) in subsection (b) by striking**
19 **“Secretary of Transportation” and in-**
20 **serting “Secretary of Homeland Secu-**
21 **rity”; and**

22 **[(B) in subsection (c)(2) by strik-**
23 **ing “Under Secretary of Transpor-**
24 **tation for Security” and inserting**
25 **“Secretary of Homeland Security”.**

1 **[(3) ADMINISTRATIVE IMPOSITION OF**
2 **PENALTIES.—Section 46301(d) of such title**
3 **is amended—**

4 **[(A) in the first sentence of para-**
5 **graph (2) by striking “46302, 46303,”**
6 **and inserting “46302 (for a violation**
7 **relating to section 46504),”; and**

8 **[(B) in the second sentence of**
9 **paragraph (2)—**

10 **[(i) by striking “Under Sec-**
11 **retary of Transportation for Secu-**
12 **urity” and inserting “Secretary of**
13 **Homeland Security”; and**

14 **[(ii) by striking “44909)” and**
15 **inserting “44909), 46302 (except**
16 **for a violation relating to section**
17 **46504), 46303,”;**

18 **[(C) in each of paragraphs (2), (3),**
19 **and (4) by striking “Under Secretary**
20 **or” and inserting “Secretary of Home-**
21 **land Security”; and**

22 **[(D) in paragraph (4)(A) by mov-**
23 **ing clauses (i), (ii), and (iii) 2 ems to**
24 **the left.**

1 [SEC. 2180. FEDERAL AIR MARSHAL ANONYMITY.

2 **[The Director of the Federal Air Marshal**
3 **Service of the Department of Homeland Secu-**
4 **rity shall continue to develop operational ini-**
5 **tiatives to protect the anonymity of Federal**
6 **air marshals.**

7 [SEC. 2181. FEDERAL LAW ENFORCEMENT counterterrorism
8 TRAINING.

9 **[(a) The Assistant Secretary for Immigra-**
10 **tion and Customs Enforcement and the Direc-**
11 **tor of Federal Air Marshal Service of the De-**
12 **partment of Homeland Security, in coordina-**
13 **tion with the Assistant Secretary of Homeland**
14 **Security (Transportation Security Adminis-**
15 **tration), shall make available appropriate in-**
16 **flight counterterrorism and weapons han-**
17 **dling procedures and tactics training to Fed-**
18 **eral law enforcement officers who fly while on**
19 **duty.**

20 **[(b) The Assistant Secretary for Immigra-**
21 **tion and Customs Enforcement and the Direc-**
22 **tor of Federal Air Marshal Service of the De-**
23 **partment of Homeland Security, in coordina-**
24 **tion with the Assistant Secretary of Homeland**
25 **Security (Transportation Security Adminis-**
26 **tration), shall ensure that Transportation Se-**

1 curity Administration screeners and Federal
2 Air Marshals receive training in identifying
3 fraudulent identification documents, includ-
4 ing fraudulent or expired Visas and Pass-
5 ports. Such training shall also be made avail-
6 able to other Federal law enforcement agen-
7 cies and local law enforcement agencies lo-
8 cated in border states.

9 [SEC. 2182. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-
10 RIAGE PILOT PROGRAM.

11 [(a) IN GENERAL.—Not later than 90 days
12 after the date of enactment of this Act, the As-
13 sistant Secretary of Homeland Security
14 (Transportation Security Administration),
15 with the concurrence of the Attorney General,
16 shall implement a pilot program to allow pi-
17 lots participating in the Federal flight deck
18 officer program to transport their firearms on
19 their persons. The Assistant Secretary, in con-
20 sultation with the Attorney General, may pre-
21 scribe any training, equipment, or procedures
22 including procedures for reporting of missing,
23 lost or stolen firearms, that the Assistant Sec-
24 retary determines necessary to ensure safety
25 and maximize weapon retention.

1 **[(b) REVIEW.—Not later than 1 year after**
2 **the date of initiation of the pilot program, the**
3 **Assistant Secretary shall conduct a review of**
4 **the safety record of the pilot program and**
5 **transmit a report on the results of the review**
6 **to the appropriate congressional committees.**

7 **[(c) OPTION.—If the Assistant Secretary as**
8 **part of the review under subsection (b) deter-**
9 **mines that the safety level obtained under the**
10 **pilot program is comparable to the safety**
11 **level determined under existing methods of**
12 **pilots carrying firearms on aircraft, the As-**
13 **stant Secretary shall allow all pilots partici-**
14 **pating in the Federal flight deck officer pro-**
15 **gram the option of carrying their firearm on**
16 **their person subject to such requirements as**
17 **the Assistant Secretary determines appro-**
18 **priate.**

19 **[SEC. 2183. REGISTERED TRAVELER PROGRAM.**

20 **[The Transportation Security Administra-**
21 **tion shall expedite implementation of the reg-**
22 **istered traveler program.**

23 **[SEC. 2184. WIRELESS COMMUNICATION.**

24 **[(a) STUDY.—The Transportation Security**
25 **Administration, in consultation with the Fed-**

1 eral Aviation Administration, shall conduct a
2 study to determine the viability of providing
3 devices or methods, including wireless meth-
4 ods, to enable a flight crew to discreetly notify
5 the pilot in the case of a security breach or
6 safety issue occurring in the cabin.

7 **[(b) MATTERS TO BE CONSIDERED.—In con-**
8 **ducting the study, the Transportation Secu-**
9 **rity Administration and the Federal Aviation**
10 **Administration shall consider technology that**
11 **is readily available and can be quickly inte-**
12 **grated and customized for use aboard aircraft**
13 **for flight crew communication.**

14 **[(c) REPORT.—Not later than 180 days**
15 **after the date of enactment of this Act, the**
16 **Transportation Security Administration shall**
17 **submit to the appropriate congressional com-**
18 **mittees a report on the results of the study.**

19 **[SEC. 2185. SECONDARY FLIGHT DECK BARRIERS.**

20 **[Not later than 6 months after the date of**
21 **enactment of this Act, the Assistant Secretary**
22 **of Homeland Security (Transportation Secu-**
23 **rity Administration) shall transmit to the ap-**
24 **propriate congressional committees a report**
25 **on the costs and benefits associated with the**

1 use of secondary flight deck barriers and
2 whether the use of such barriers should be
3 mandated for all air carriers. The Assistant
4 Secretary may transmit the report in a classi-
5 fied format.

6 [SEC. 2186. EXTENSION.

7 [Section 48301(a) of title 49, United States
8 Code, is amended by striking “and 2005” and
9 inserting “2005, and 2006”.

10 [SEC. 2187. PERIMETER SECURITY.

11 [(a) REPORT.—Not later than 180 days
12 after the date of enactment of this Act, the As-
13 sistant Secretary of Homeland Security
14 (Transportation Security Administration), in
15 consultation with airport operators and law
16 enforcement authorities, shall develop and
17 submit to the appropriate congressional com-
18 mittee a report on airport perimeter security.
19 The report may be submitted in a classified
20 format.

21 [(b) CONTENTS.—The report shall in-
22 clude—

23 [(1) an examination of the feasibility
24 of access control technologies and proce-
25 dures, including the use of biometrics

1 **and other methods of positively identi-**
2 **fyng individuals prior to entry into se-**
3 **ecure areas of airports, and provide best**
4 **practices for enhanced perimeter access**
5 **control techniques; and**

6 **[(2) an assessment of the feasibility of**
7 **physically screening all individuals prior**
8 **to entry into secure areas of an airport**
9 **and additional methods for strengthening**
10 **the background vetting process for all in-**
11 **dividuals credentialed to gain access to**
12 **secure areas of airports.**

13 **[SEC. 2188. EXTREMELY HAZARDOUS MATERIALS TRANS-**
14 **PORTATION SECURITY.**

15 **[(a) RULEMAKING.—**

16 **[(1) IN GENERAL.—Not later than 180**
17 **days after the date of enactment of this**
18 **Act, the Secretary of Homeland Security,**
19 **in consultation with the Attorney Gen-**
20 **eral and the heads of other appropriate**
21 **Federal, State, and local government en-**
22 **tities, security experts, representatives of**
23 **the hazardous materials shipping indus-**
24 **try and labor unions representing per-**
25 **sons who work in the hazardous mate-**

1 **rials shipping industry, and other inter-**
2 **ested persons, shall issue, after notice**
3 **and opportunity for public comment, reg-**
4 **ulations concerning the shipping of ex-**
5 **tremely hazardous materials.**

6 **[(2) PURPOSES OF REGULATIONS.—The**
7 **regulations shall be consistent, to the ex-**
8 **tent the Secretary determines appro-**
9 **priate, with and not duplicative of other**
10 **Federal regulations and international**
11 **agreements relating to the shipping of ex-**
12 **tremely hazardous materials and shall re-**
13 **quire—**

14 **[(A) physical security measures**
15 **for such shipments, such as the use of**
16 **passive secondary containment of**
17 **tanker valves, additional security**
18 **force personnel, and surveillance**
19 **technologies and barriers;**

20 **[(B) concerned Federal, State,**
21 **and local law enforcement authorities**
22 **(including, if applicable, transit, rail-**
23 **road, or port authority police agen-**
24 **cies) to be informed before an ex-**
25 **tremely hazardous material is trans-**

1 ported within, through, or near an
2 area of concern;

3 [(C) coordination with Federal,
4 State, and local law enforcement au-
5 thorities to create response plans for
6 a terrorist attack on a shipment of ex-
7 tremely hazardous materials;

8 [(D) the use of currently available
9 technologies and systems to ensure
10 effective and immediate communica-
11 tion between transporters of ex-
12 tremely hazardous materials, law en-
13 forcement authorities and first re-
14 sponders;

15 [(E) comprehensive and appro-
16 priate training in the area of ex-
17 tremely hazardous materials trans-
18 portation security for all individuals
19 who transport, load, unload, or are
20 otherwise involved in the shipping of
21 extremely hazardous materials or
22 who would respond to an accident or
23 incident involving a shipment of ex-
24 tremely hazardous material or would
25 have to repair transportation equip-

1 ment and facilities in the event of
2 such an accident or incident; and

3 [(F) for the transportation of ex-
4 tremely hazardous materials through
5 or near an area of concern, the Sec-
6 retary to determine whether or not
7 the transportation could be made by
8 one or more alternate routes at lower
9 security risk and, if the Secretary de-
10 termines the transportation could be
11 made by an alternate route, the use of
12 such alternate route, except when the
13 origination or destination of the ship-
14 ment is located within the area of
15 concern.

16 [(b) JUDICIAL RELIEF.—A person (other
17 than an individual) who transports, loads, un-
18 loads, or is otherwise involved in the shipping
19 of hazardous materials and violates or fails to
20 comply with a regulation issued by the Sec-
21 retary under subsection (a) may be subject, in
22 a civil action brought in United States district
23 court, for each shipment with respect to
24 which the violation occurs—

1 **[(1) to an order for injunctive relief;**
2 **or**

3 **[(2) to a civil penalty of not more**
4 **than \$100,000.**

5 **[(c) ADMINISTRATIVE PENALTIES.—**

6 **[(1) PENALTY ORDERS.—The Secretary**
7 **may issue an order imposing an adminis-**
8 **trative penalty of not more than**
9 **\$1,000,000 for failure by a person (other**
10 **than an individual) who transports,**
11 **loads, unloads, or is otherwise involved**
12 **in the shipping of hazardous materials to**
13 **comply with a regulation issued by the**
14 **Secretary under subsection (a).**

15 **[(2) NOTICE AND HEARING.—Before**
16 **issuing an order described in paragraph**
17 **(1), the Secretary shall provide to the**
18 **person against whom the penalty is to be**
19 **assessed—**

20 **[(A) written notice of the pro-**
21 **posed order; and**

22 **[(B) the opportunity to request,**
23 **not later than 30 days after the date**
24 **on which the person receives the no-**
25 **tice, a hearing on the proposed order.**

1 **[(3) PROCEDURES.—The Secretary may**
2 **issue regulations establishing procedures**
3 **for administrative hearings and appro-**
4 **priate review of penalties issued under**
5 **this subsection, including necessary**
6 **deadlines.**

7 **[(d) WHISTLEBLOWER PROTECTION.—**

8 **[(1) IN GENERAL.—No person involved**
9 **in the shipping of extremely hazardous**
10 **materials may be discharged, demoted,**
11 **suspended, threatened, harassed, or in**
12 **any other manner discriminated against**
13 **because of any lawful act done by the**
14 **person—**

15 **[(A) to provide information, cause**
16 **information to be provided, or other-**
17 **wise assist in an investigation regard-**
18 **ing any conduct which the person**
19 **reasonably believes constitutes a vio-**
20 **lation of any law, rule or regulation**
21 **related to the security of shipments**
22 **of extremely hazardous materials, or**
23 **any other threat to the security of**
24 **shipments of extremely hazardous**
25 **materials, when the information or**

1 assistance is provided to or the inves-
2 tigation is conducted by—

3 [(i) a Federal regulatory or
4 law enforcement agency;

5 [(ii) any Member of Congress
6 or any committee of Congress; or

7 [(iii) a person with super-
8 visory authority over the person
9 (or such other person who has the
10 authority to investigate, discover,
11 or terminate misconduct); or

12 [(B) to file, cause to be filed, tes-
13 tify, participate in, or otherwise as-
14 sist in a proceeding or action filed or
15 about to be filed relating to a viola-
16 tion of any law, rule or regulation re-
17 lated to the security of shipments of
18 extremely hazardous materials or any
19 other threat to the security of ship-
20 ments of extremely hazardous mate-
21 rials.

22 [(C) to refuse to violate or assist
23 in the violation of any law, rule, or
24 regulation related to the security of

1 **shipments of extremely hazardous**
2 **materials.**

3 **[(2) ENFORCEMENT ACTION.—**

4 **[(A) IN GENERAL.—A person who**
5 **alleges discharge or other discrimina-**
6 **tion by any person in violation of**
7 **paragraph (1) may seek relief under**
8 **paragraph (3), by—**

9 **[(i) filing a complaint with**
10 **the Secretary of Labor; or**

11 **[(ii) if the Secretary has not**
12 **issued a final decision within 180**
13 **days of the filing of the complaint**
14 **and there is no showing that such**
15 **delay is due to the bad faith of**
16 **the claimant, bringing an action**
17 **at law or equity for de novo re-**
18 **view in the appropriate district**
19 **court of the United States, which**
20 **shall have jurisdiction over such**
21 **an action without regard to the**
22 **amount in controversy.**

23 **[(B) PROCEDURE.—**

24 **[(i) IN GENERAL.— An action**
25 **under subparagraph (A)(i) shall**

1 be governed under the rules and
2 procedures set forth in section
3 42121(b) of title 49, United States
4 Code.

5 **[(ii) EXCEPTION.—**Notification
6 made under section 42121(b)(1) of
7 title 49, United States Code, shall
8 be made to the person named in
9 the complaint and to the person's
10 employer.

11 **[(iii) BURDENS OF PROOF.—**An
12 action brought under subpara-
13 graph (A)(ii) shall be governed by
14 the legal burdens of proof set
15 forth in section 42121(b) of title
16 49, United States Code.

17 **[(iv) STATUTE OF LIMITA-**
18 **TIONS.—**An action under subpara-
19 graph (A) shall be commenced not
20 later than 90 days after the date
21 on which the violation occurs.

22 **[(3) REMEDIES.—**

23 **[(A) IN GENERAL.—**A person pre-
24 vailing in any action under para-
25 graph (2)(A) shall be entitled to all re-

1 lief necessary to make the person
2 whole.

3 **[(B) COMPENSATORY DAMAGES.—Re-**
4 **lief for any action under subpara-**
5 **graph (A) shall include—**

6 **[(i) reinstatement with the**
7 **same seniority status that the**
8 **person would have had, but for**
9 **the discrimination;**

10 **[(ii) the amount of any back**
11 **pay, with interest; and**

12 **[(iii) compensation for any**
13 **special damages sustained as a re-**
14 **sult of the discrimination, includ-**
15 **ing litigation costs, expert witness**
16 **fees, and reasonable attorney**
17 **fees.**

18 **[(4) RIGHTS RETAINED BY PERSON.—**
19 **Nothing in this subsection shall be**
20 **deemed to diminish the rights, privileges,**
21 **or remedies of any person under any Fed-**
22 **eral or State law, or under any collective**
23 **bargaining agreement.**

24 **[(e) DEFINITIONS.—In this section, the fol-**
25 **lowing definitions apply:**

1 **[(1) EXTREMELY HAZARDOUS MATE-**
2 **RIAL.—The term “extremely hazardous**
3 **material” means—**

4 **[(A) a material that is toxic by in-**
5 **halation;**

6 **[(B) a material that is extremely**
7 **flammable;**

8 **[(C) a material that is highly ex-**
9 **plosive; and**

10 **[(D) any other material des-**
11 **ignated by the Secretary to be ex-**
12 **tremely hazardous.**

13 **[(2) AREA OF CONCERN.—The term**
14 **“area of concern” means an area that the**
15 **Secretary determines could pose a par-**
16 **ticular interest to terrorists.**

17 **[SEC. 2189. DEFINITIONS.**

18 **[In this title, the following definitions**
19 **apply:**

20 **[(1) APPROPRIATE CONGRESSIONAL COM-**
21 **MITTEE.—The term “appropriate congres-**
22 **sional committees” means the Committee**
23 **on Transportation and Infrastructure**
24 **and the Committee on the Judiciary of**
25 **the House of Representatives and the**

1 **Committee on Commerce, Science, and**
2 **Transportation of the Senate.**

3 **[(2) AIR CARRIER.—The term “air car-**
4 **rier” has the meaning such term has**
5 **under section 40102 of title 49, United**
6 **States Code.**

7 **[(3) SECURE AREA OF AN AIRPORT.—The**
8 **term “secure area of an airport” means**
9 **the sterile area and the Secure Identifica-**
10 **tion Display Area of an airport (as such**
11 **terms are defined in section 1540.5 of title**
12 **49, Code of Federal Regulations, or any**
13 **successor regulation to such section).**

14 **[Subtitle H—Other Matters**

15 **[SEC. 2191. GRAND JURY INFORMATION SHARING.**

16 **[(a) RULE AMENDMENTS.—Rule 6(e) of the**
17 **Federal Rules of Criminal Procedure is**
18 **amended—**

19 **[(1) in paragraph (3)—**

20 **[(A) in subparagraph (A)(ii), by**
21 **striking “or state subdivision or of an**
22 **Indian tribe” and inserting “, state**
23 **subdivision, Indian tribe, or foreign**
24 **government”;**

25 **[(B) in subparagraph (D)—**

1 **[(i) by inserting after the first**
2 **sentence the following: “An attor-**
3 **ney for the government may also**
4 **disclose any grand-jury matter in-**
5 **volving a threat of actual or po-**
6 **tential attack or other grave hos-**
7 **tile acts of a foreign power or an**
8 **agent of a foreign power, domes-**
9 **tic or international sabotage, do-**
10 **mestic or international terrorism,**
11 **or clandestine intelligence gath-**
12 **ering activities by an intelligence**
13 **service or network of a foreign**
14 **power or by an agent of a foreign**
15 **power, within the United States**
16 **or elsewhere, to any appropriate**
17 **Federal, State, state subdivision,**
18 **Indian tribal, or foreign govern-**
19 **ment official for the purpose of**
20 **preventing or responding to such**
21 **a threat.”; and**

22 **[(ii) in clause (i)—**

23 **[(I) by striking “federal”;**
24 **and**

1 **[(II) by adding at the end**
2 **the following: “Any State,**
3 **state subdivision, Indian trib-**
4 **al, or foreign government offi-**
5 **cial who receives information**
6 **under Rule 6(e)(3)(D) may use**
7 **the information only con-**
8 **sistent with such guidelines**
9 **as the Attorney General and**
10 **the National Intelligence Di-**
11 **rector shall jointly issue.”;**
12 **and**

13 **[(C) in subparagraph (E)—**

14 **[(i) by redesignating clauses**
15 **(iii) and (iv) as clauses (iv) and**
16 **(v), respectively;**

17 **[(ii) by inserting after clause**
18 **(ii) the following:**

19 **[(“iii) at the request of the**
20 **government, when sought by a**
21 **foreign court or prosecutor for**
22 **use in an official criminal inves-**
23 **tigation;”]; and**

24 **[(iii) in clause (iv), as redesign-**
25 **ated—**

1 **[(I) by striking “state or**
2 **Indian tribal” and inserting**
3 **“State, Indian tribal, or for-**
4 **foreign”; and**

5 **[(II) by striking “or In-**
6 **dian tribal official” and in-**
7 **serting “Indian tribal, or for-**
8 **foreign government official”; and**

9 **[(2) in paragraph (7), by inserting “,**
10 **or of guidelines jointly issued by the At-**
11 **torney General and Director of Central**
12 **Intelligence pursuant to Rule 6,” after**
13 **“Rule 6”.**

14 **[(b) CONFORMING AMENDMENT.—Section**
15 **203(c) of Public Law 107–56 (18 U.S.C. 2517**
16 **note) is amended by striking “Rule**
17 **6(e)(3)(C)(i)(V) and (VI)” and inserting “Rule**
18 **6(e)(3)(D)”.**

19 **[SEC. 2192. INTEROPERABLE LAW ENFORCEMENT AND IN-**
20 **TELLIGENCE DATA SYSTEM.**

21 **[(a) FINDINGS.—The Congress finds as fol-**
22 **lows:**

23 **[(1) The interoperable electronic data**
24 **system know as the “Chimera system”,**
25 **and required to be developed and imple-**

1 mented by section 202(a)(2) of the En-
2 hanced Border Security and Visa Entry
3 Reform Act of 2002 (8 U.S.C. 1722(a)(2)),
4 has not in any way been implemented.

5 [(2) Little progress has been made
6 since the enactment of such Act with re-
7 gard to establishing a process to connect
8 existing trusted systems operated inde-
9 pendently by the respective intelligence
10 agencies.

11 [(3) It is advisable, therefore, to as-
12 sign such responsibility to the National
13 Intelligence Director.

14 [(4) The National Intelligence Direc-
15 tor should, pursuant to the amendments
16 made by subsection (c), begin systems
17 planning immediately upon assuming of-
18 fice to deliver an interim system not later
19 than 1 year after the date of the enact-
20 ment of this Act, and to deliver the fully
21 functional Chimera system not later than
22 September 11, 2007.

23 [(5) Both the interim system, and the
24 fully functional Chimera system, should
25 be designed so that intelligence officers,

1 **Federal law enforcement agencies (as de-**
2 **defined in section 2 of such Act (8 U.S.C.**
3 **1701)), operational counter-terror sup-**
4 **port center personnel, consular officers,**
5 **and Department of Homeland Security**
6 **enforcement officers have access to them.**

7 **[(b) PURPOSES.—The purposes of this sec-**
8 **tion are as follows:**

9 **[(1) To provide the National Intel-**
10 **ligence Director with the necessary au-**
11 **thority and resources to establish both an**
12 **interim data system and, subsequently, a**
13 **fully functional Chimera system, to col-**
14 **lect and share intelligence and oper-**
15 **ational information with the intelligence**
16 **community (as defined in section 3(4) of**
17 **the National Security Act of 1947 (50**
18 **U.S.C. 401a(4)).**

19 **[(2) To require the National Intel-**
20 **ligence Director to establish a state-of-**
21 **the-art Chimera system with both biomet-**
22 **ric identification and linguistic capabili-**
23 **ties satisfying the best technology stand-**
24 **ards.**

1 **[(3) To ensure that the National Intel-**
2 **ligence Center will have a fully func-**
3 **tional capability, not later than Sep-**
4 **tember 11, 2007, for interoperable data**
5 **and intelligence exchange with the agen-**
6 **cies of the intelligence community (as so**
7 **defined).**

8 **[(c) AMENDMENTS.—**

9 **[(1) IN GENERAL.—Title II of the En-**
10 **hanced Border Security and Visa Entry**
11 **Reform Act of 2002 (8 U.S.C. 1721 et seq.)**
12 **is amended—**

13 **[(A) in section 202(a)—**

14 **[(i) by amending paragraphs**
15 **(1) and (2) to read as follows:**

16 **[(“(1) INTERIM INTEROPERABLE INTEL-**
17 **LIGENCE DATA EXCHANGE SYSTEM.—Not**
18 **later than 1 year after assuming office,**
19 **the National Intelligence Director shall**
20 **establish an interim interoperable intel-**
21 **ligence data exchange system that will**
22 **connect the data systems operated inde-**
23 **pendently by the entities in the intel-**
24 **ligence community and by the National**
25 **counterterrorism Center, so as to permit**

1 **automated data exchange among all of**
2 **these entities. Immediately upon assum-**
3 **ing office, the National Intelligence Di-**
4 **rector shall begin the plans necessary to**
5 **establish such interim system.**

6 **[(2) CHIMERA SYSTEM.—Not later than**
7 **September 11, 2007, the National Intel-**
8 **ligence Director shall establish a fully**
9 **functional interoperable law enforcement**
10 **and intelligence electronic data system**
11 **within the National counterterrorism**
12 **Center to provide immediate access to in-**
13 **formation in databases of Federal law en-**
14 **forcement agencies and the intelligence**
15 **community that is necessary to identify**
16 **terrorists, and organizations and individ-**
17 **uals that support terrorism. The system**
18 **established under this paragraph shall**
19 **referred to as the ‘Chimera system’. ”;**

20 **[(ii) in paragraph (3)—**

21 **[(I) by striking “Presi-**
22 **dent” and inserting “National**
23 **Intelligence Director”]; and**

24 **[(II) by striking “the data**
25 **system” and inserting “the in-**

1 **terim system described in**
2 **paragraph (1) and the Chi-**
3 **mera system described in**
4 **paragraph (2)”;**

5 **[(iii) in paragraph (4)(A), by**
6 **striking “The data system” and all**
7 **that follows through “(2),” and in-**
8 **serting “The interim system de-**
9 **scribed in paragraph (1) and the**
10 **Chimera system described in**
11 **paragraph (2)”;**

12 **[(iv) in paragraph (5)—**

13 **[(I) in the matter pre-**
14 **ceding subparagraph (A), by**
15 **striking “data system under**
16 **this subsection” and inserting**
17 **“Chimera system described in**
18 **paragraph (2)”;**

19 **[(II) in subparagraph (B),**
20 **by striking “and” at the end;**

21 **[(III) in subparagraph (C),**
22 **by striking the period at the**
23 **end and inserting “; and”; and**

24 **[(IV) by adding at the end**
25 **the following:**

1 **[(D) to any Federal law enforce-**
2 **ment or intelligence officer author-**
3 **ized to assist in the investigation,**
4 **identification, or prosecution of ter-**
5 **rorists, alleged terrorists, individuals**
6 **supporting terrorist activities, and in-**
7 **dividuals alleged to support terrorist**
8 **activities.”; and**

9 **[(v) in paragraph (6)—**

10 **[(I) by striking “Presi-**
11 **dent” and inserting “National**
12 **Intelligence Director”;**

13 **[(II) by striking “the data**
14 **system” and all that follows**
15 **through “(2),” and inserting**
16 **“the interim system described**
17 **in paragraph (1) and the Chi-**
18 **mera system described in**
19 **paragraph (2)”;**

20 **[(B) in section 202(b)—**

21 **[(i) in paragraph (1), by strik-**
22 **ing “The interoperable” and all**
23 **that follows through “subsection**
24 **(a)” and inserting “the Chimera**

1 system described in subsection
2 (a)(2)”;

3 [(ii) in paragraph (2), by strik-
4 ing “interoperable electronic
5 database” and inserting “Chimera
6 system described in subsection
7 (a)(2)”; and

8 [(iii) by amending paragraph
9 (4) to read as follows:

10 [“(4) INTERIM REPORTS.—Not later
11 than 6 months after assuming office, the
12 National Intelligence Director shall sub-
13 mit a report to the appropriate commit-
14 tees of Congress on the progress in imple-
15 menting each requirement of this sec-
16 tion.”;

17 [(C) in section 204—

18 [(i) by striking “Attorney Gen-
19 eral” each place such term ap-
20 pears and inserting “National In-
21 telligence Director”;

22 [(ii) in subsection (d)(1), by
23 striking “Attorney General’s” and
24 inserting “National Intelligence
25 Director’s”; and

1 **[(D) by striking section 203 and**
2 **redesignating section 204 as section**
3 **203.**

4 **[(2) CLERICAL AMENDMENT.—The table**
5 **of contents for the Enhanced Border Se-**
6 **curity and Visa Entry Reform Act of 2002**
7 **(8 U.S.C. 1701 et seq.) is amended—**

8 **[(A) by striking the item relating**
9 **to section 203; and**

10 **[(B) by redesignating the item re-**
11 **lating to section 204 as relating to**
12 **section 203.**

13 **[SEC. 2193. IMPROVEMENT OF INTELLIGENCE CAPABILI-**
14 **TIES OF THE FEDERAL BUREAU OF INVES-**
15 **TIGATION.**

16 **[(a) FINDINGS.—Consistent with the report**
17 **of the National Commission on Terrorist At-**
18 **tacks Upon the United States and to meet the**
19 **intelligence needs of the United States, Con-**
20 **gress makes the following findings:**

21 **[(1) The Federal Bureau of Investiga-**
22 **tion has made significant progress in im-**
23 **proving its intelligence capabilities.**

24 **[(2) The Federal Bureau of Investiga-**
25 **tion must further enhance and fully insti-**

1 tutionalize its ability to prevent, pre-
2 empt, and disrupt terrorist threats to our
3 homeland, our people, our allies, and our
4 interests.

5 **[(3) The Federal Bureau of Investiga-**
6 **tion must collect, process, share, and dis-**
7 **seminate, to the greatest extent per-**
8 **mitted by applicable law, to the Presi-**
9 **dent, the Vice President, and other offi-**
10 **cial in the Executive Branch, all ter-**
11 **rorism information and other informa-**
12 **tion necessary to safeguard our people**
13 **and advance our national and homeland**
14 **security interests.**

15 **[(4) The Federal Bureau of Investiga-**
16 **tion must move towards full and seamless**
17 **coordination and cooperation with all**
18 **other elements of the Intelligence Com-**
19 **munity, including full participation in,**
20 **and support to, the National counter-**
21 **terrorism Center.**

22 **[(5) The Federal Bureau of Investiga-**
23 **tion must strengthen its pivotal role in**
24 **coordination and cooperation with Fed-**
25 **eral, State, tribal, and local law enforce-**

1 ment agencies to ensure the necessary
2 sharing of information for counter-
3 terrorism and criminal law enforcement
4 purposes.

5 **[(6) The Federal Bureau of Investiga-**
6 **tion must perform its vital intelligence**
7 **functions in a manner consistent with**
8 **both with national intelligence priorities**
9 **and respect for privacy and other civil**
10 **liberties under the Constitution and laws**
11 **of the United States.**

12 **[(b) IMPROVEMENT OF INTELLIGENCE CAPA-**
13 **BILITIES.—The Director of the Federal Bureau**
14 **of Investigation shall establish a comprehen-**
15 **sive intelligence program for—**

16 **[(1) intelligence analysis, including**
17 **recruitment and hiring of analysts, ana-**
18 **lyst training, priorities and status for**
19 **analysis, and analysis performance meas-**
20 **ures;**

21 **[(2) intelligence production, includ-**
22 **ing product standards, production prior-**
23 **ities, information sharing and dissemina-**
24 **tion, and customer satisfaction measures;**

1 **[(3) production of intelligence that is**
2 **responsive to national intelligence re-**
3 **quirements and priorities, including**
4 **measures of the degree to which each**
5 **FBI headquarters and field component is**
6 **collecting and providing such intel-**
7 **ligence;**

8 **[(4) intelligence sources, including**
9 **source validation, new source develop-**
10 **ment, and performance measures;**

11 **[(5) field intelligence operations, in-**
12 **cluding staffing and infrastructure, man-**
13 **agement processes, priorities, and per-**
14 **formance measures;**

15 **[(6) full and seamless coordination**
16 **and cooperation with the other compo-**
17 **nents of the Intelligence Community, con-**
18 **sistent with their responsibilities; and**

19 **[(7) sharing of FBI intelligence and**
20 **information across Federal, state, and**
21 **local governments, with the private sec-**
22 **tor, and with foreign partners as pro-**
23 **vided by law or by guidelines of the At-**
24 **torney General.**

1 **[(c) INTELLIGENCE DIRECTORATE.—The Di-**
2 **rector of the Federal Bureau of Investigation**
3 **shall establish an Intelligence Directorate**
4 **within the FBI. The Intelligence Directorate**
5 **shall have the authority to manage and direct**
6 **the intelligence operations of all FBI head-**
7 **quarters and field components. The Intel-**
8 **ligence Directorate shall have responsibility**
9 **for all components and functions of the FBI**
10 **necessary for—**

11 **[(1) oversight of FBI field intelligence**
12 **operations;**

13 **[(2) FBI human source development**
14 **and management;**

15 **[(3) FBI collection against nationally-**
16 **determined intelligence requirements;**

17 **[(4) language services;**

18 **[(5) strategic analysis;**

19 **[(6) intelligence program and budget**
20 **management; and**

21 **[(7) the intelligence workforce.**

22 **[(d) NATIONAL SECURITY WORKFORCE.—The**
23 **Director of the Federal Bureau of Investiga-**
24 **tion shall establish a specialized, integrated**
25 **intelligence cadre composed of Special**

1 **Agents, analysts, linguists, and surveillance**
2 **specialists in a manner which creates and sus-**
3 **tains within the FBI a workforce with sub-**
4 **stantial expertise in, and commitment to, the**
5 **intelligence mission of the FBI. The Director**
6 **shall—**

7 **[(1) ensure that these FBI employees**
8 **may make their career, including pro-**
9 **motion to the most senior positions in the**
10 **FBI, within this career track;**

11 **[(2) establish intelligence cadre re-**
12 **quirements for—**

13 **[(A) training;**

14 **[(B) career development and cer-**
15 **tification;**

16 **[(C) recruitment, hiring, and se-**
17 **lection;**

18 **[(D) integrating field intelligence**
19 **teams; and**

20 **[(E) senior level field manage-**
21 **ment;**

22 **[(3) establish intelligence officer cer-**
23 **tification requirements, including re-**
24 **quirements for training courses and as-**
25 **signments to other intelligence, national**

1 security, or homeland security compo-
2 nents of the Executive branch, in order to
3 advance to senior operational manage-
4 ment positions in the FBI;

5 [(4) ensure that the FBI's recruitment
6 and training program enhances its ability
7 to attract individuals with educational
8 and professional backgrounds in intel-
9 ligence, international relations, language,
10 technology, and other skills relevant to
11 the intelligence mission of the FBI;

12 [(5) ensure that all Special Agents
13 and analysts employed by the FBI after
14 the date of the enactment of this Act
15 shall receive basic training in both crimi-
16 nal justice matters and intelligence mat-
17 ters;

18 [(6) ensure that all Special Agents
19 employed by the FBI after the date of the
20 enactment of this Act, to the maximum
21 extent practicable, be given an oppor-
22 tunity to undergo, during their early
23 service with the FBI, meaningful assign-
24 ments in criminal justice matters and in
25 intelligence matters;

1 **[(7) ensure that, to the maximum ex-**
2 **tent practical, Special Agents who spe-**
3 **cialize in intelligence are afforded the op-**
4 **portunity to work on intelligence matters**
5 **over the remainder of their career with**
6 **the FBI; and**

7 **[(8) ensure that, to the maximum ex-**
8 **tent practical, analysts are afforded FBI**
9 **training and career opportunities com-**
10 **mensurate with the training and career**
11 **opportunities afforded analysts in other**
12 **elements of the intelligence community.**

13 **[(e) FIELD OFFICE MATTERS.—The Director**
14 **of the Federal Bureau of Investigation shall**
15 **take appropriate actions to ensure the inte-**
16 **gration of analysis, Special Agents, linguists,**
17 **and surveillance personnel in FBI field intel-**
18 **ligence components and to provide effective**
19 **leadership and infrastructure to support FBI**
20 **field intelligence components. The Director**
21 **shall—**

22 **[(1) ensure that each FBI field office**
23 **has an official at the level of Assistant**
24 **Special Agent in Charge or higher with**

1 responsibility for the FBI field intel-
2 ligence component; and

3 [(2) to the extent practicable, provide
4 for such expansion of special compart-
5 mented information facilities in FBI field
6 offices as is necessary to ensure the dis-
7 charge by the field intelligence compo-
8 nents of the national security and crimi-
9 nal intelligence mission of the FBI.

10 [(f) BUDGET MATTERS.—The Director of the
11 Federal Bureau of Investigation shall, in con-
12 sultation with the Director of the Office of
13 Management and Budget, modify the budget
14 structure of the FBI in order to organize the
15 budget according to its four main programs as
16 follows:

17 [(1) Intelligence.

18 [(2) counterterrorism and counter-
19 intelligence.

20 [(3) Criminal enterprise/Federal
21 crimes.

22 [(4) Criminal justice services.

23 [(g) REPORTS.—

24 [(1)(A) Not later than 180 days after
25 the date of the enactment of this Act, and

1 every twelve months thereafter, the Di-
2 rector of the Federal Bureau of Investiga-
3 tion shall submit to Congress a report on
4 the progress made as of the date of such
5 report in carrying out the requirements
6 of this section.

7 [(B) The Director shall include in the
8 first report required by subparagraph (A)
9 an estimate of the resources required to
10 complete the expansion of special com-
11 partmented information facilities to
12 carry out the intelligence mission of FBI
13 field intelligence components.

14 [(2) In each annual report required
15 by paragraph (1)(A) the director shall in-
16 clude—

17 [(A) a report on the progress
18 made by each FBI field office during
19 the period covered by such review in
20 addressing FBI and national intel-
21 ligence priorities;

22 [(B) a report assessing the quali-
23 fications, status, and roles of analysts
24 at FBI headquarters and in FBI field
25 offices; and

1 **[(C) a report on the progress of**
2 **the FBI in implementing information-**
3 **sharing principles.**

4 **[(3) A report required by this sub-**
5 **section shall be submitted—**

6 **[(A) to each committee of Con-**
7 **gress that has jurisdiction over the**
8 **subject matter of such report; and**

9 **[(B) in unclassified form, but may**
10 **include a classified annex.**

11 **[SEC. 2194. NUCLEAR FACILITY THREATS.**

12 **[(a) STUDY.—The President, in consulta-**
13 **tion with the Nuclear Regulatory Commission**
14 **and other appropriate Federal, State, and**
15 **local agencies and private entities, shall con-**
16 **duct a study to identify the types of threats**
17 **that pose an appreciable risk to the security**
18 **of the various classes of facilities licensed by**
19 **the Nuclear Regulatory Commission under**
20 **the Atomic Energy Act of 1954. Such study**
21 **shall take into account, but not be limited to—**

22 **[(1) the events of September 11, 2001;**

23 **[(2) an assessment of physical, cyber,**
24 **biochemical, and other terrorist threats;**

1 **[(3) the potential for attack on facili-**
2 **ties by multiple coordinated teams of a**
3 **large number of individuals;**

4 **[(4) the potential for assistance in an**
5 **attack from several persons employed at**
6 **the facility;**

7 **[(5) the potential for suicide attacks;**

8 **[(6) the potential for water-based and**
9 **air-based threats;**

10 **[(7) the potential use of explosive de-**
11 **vices of considerable size and other mod-**
12 **ern weaponry;**

13 **[(8) the potential for attacks by per-**
14 **sons with a sophisticated knowledge of**
15 **facility operations;**

16 **[(9) the potential for fires, especially**
17 **fires of long duration; and**

18 **[(10) the potential for attacks on**
19 **spent fuel shipments by multiple coordi-**
20 **nated teams of a large number of individ-**
21 **uals.**

22 **[(b) SUMMARY AND CLASSIFICATION RE-**
23 **PORT.—Not later than 180 days after the date**
24 **of the enactment of this Act, the President**

1 shall transmit to the Congress and the Nu-
2 clear Regulatory Commission a report—

3 **[(1) summarizing the types of threats**
4 **identified under subsection (a); and**

5 **[(2) classifying each type of threat**
6 **identified under subsection (a), in accord-**
7 **ance with existing laws and regulations,**
8 **as either—**

9 **[(A) involving attacks and de-**
10 **structive acts, including sabotage, di-**
11 **rected against the facility by an**
12 **enemy of the United States, whether**
13 **a foreign government or other per-**
14 **son, or otherwise falling under the re-**
15 **sponsibilities of the Federal Govern-**
16 **ment; or**

17 **[(B) involving the type of risks**
18 **that Nuclear Regulatory Commission**
19 **licensees should be responsible for**
20 **guarding against.**

21 **[(c) FEDERAL ACTION REPORT.—Not later**
22 **than 90 days after the date on which a report**
23 **is transmitted under subsection (b), the Presi-**
24 **dent shall transmit to the Congress a report**
25 **on actions taken, or to be taken, to address**

1 the types of threats identified under sub-
2 section (b)(2)(A). Such report may include a
3 classified annex as appropriate.

4 [(d) REGULATIONS.—Not later than 270
5 days after the date on which a report is trans-
6 mitted under subsection (b), the Nuclear Reg-
7 ulatory Commission shall issue regulations,
8 including changes to the design basis threat,
9 to ensure that licensees address the threats
10 identified under subsection (b)(2)(B).

11 [(e) PHYSICAL SECURITY PROGRAM.—The
12 Nuclear Regulatory Commission shall estab-
13 lish an operational safeguards response eval-
14 uation program that ensures that the physical
15 protection capability and operational safe-
16 guards response for sensitive nuclear facili-
17 ties, as determined by the Commission con-
18 sistent with the protection of public health
19 and the common defense and security, shall
20 be tested periodically through Commission
21 designed, observed, and evaluated force-on-
22 force exercises to determine whether the abil-
23 ity to defeat the design basis threat is being
24 maintained. The exercises shall be conducted
25 by a mock terrorist team consisting of Com-

1 mission personnel with advanced knowledge
2 of special weapons and tactics comparable to
3 special operations forces of the Armed Forces.
4 For purposes of this subsection, the term
5 “sensitive nuclear facilities” includes at a
6 minimum commercial nuclear power plants,
7 including associated spent fuel storage facili-
8 ties, spent fuel storage pools and dry cask
9 storage at closed reactors, independent spent
10 fuel storage facilities and geologic repository
11 operations areas, category I fuel cycle facili-
12 ties, and gaseous diffusion plants. There are
13 authorized to be appropriated to the Nuclear
14 Regulatory Commission \$3,000,000 for the
15 purposes of carrying out this subsection.

16 [(f) CONTROL OF INFORMATION.—In car-
17 rying out this section, the President and the
18 Nuclear Regulatory Commission shall control
19 the dissemination of restricted data, safe-
20 guards information, and other classified na-
21 tional security information in a manner so as
22 to ensure the common defense and security,
23 consistent with chapter 12 of the Atomic En-
24 ergy Act of 1954.

1 [SEC. 2195. AUTHORIZATION AND CHANGE OF COPS PRO-
2 GRAM TO SINGLE GRANT PROGRAM.

3 [(a) IN GENERAL.—Section 1701 of title I of
4 the Omnibus Crime Control and Safe Streets
5 Act of 1968 (42 U.S.C. 3796dd) is amended—

6 [(1) by amending subsection (a) to
7 read as follows:

8 [“(a) GRANT AUTHORIZATION.—The Attor-
9 ney General shall carry out a single grant pro-
10 gram under which the Attorney General
11 makes grants to States, units of local govern-
12 ment, Indian tribal governments, other public
13 and private entities, and multi-jurisdictional
14 or regional consortia for the purposes de-
15 scribed in subsection (b).”;

16 [(2) by striking subsections (b) and
17 (c);

18 [(3) by redesignating subsection (d)
19 as subsection (b), and in that sub-
20 section—

21 [(A) by striking “ADDITIONAL
22 GRANT PROJECTS.—Grants made
23 under subsection (a) may include pro-
24 grams, projects, and other activities
25 to—” and inserting “USES OF GRANT
26 AMOUNTS.—The purposes for which

1 **grants made under subsection (a)**
2 **may be made are—”;**

3 **[(B) by redesignating paragraphs**
4 **(1) through (12) as paragraphs (6)**
5 **through (17), respectively;**

6 **[(C) by inserting before para-**
7 **graph (5) (as so redesignated) the fol-**
8 **lowing new paragraphs:**

9 **[“(1) rehire law enforcement officers**
10 **who have been laid off as a result of State**
11 **and local budget reductions for deploy-**
12 **ment in community-oriented policing;**

13 **[“(2) hire and train new, additional**
14 **career law enforcement officers for de-**
15 **ployment in community-oriented policing**
16 **across the Nation;**

17 **[“(3) procure equipment, technology,**
18 **or support systems, or pay overtime, to**
19 **increase the number of officers deployed**
20 **in community-oriented policing;**

21 **[“(4) improve security at schools and**
22 **on school grounds in the jurisdiction of**
23 **the grantee through—**

1 **[“(A) placement and use of metal**
2 **detectors, locks, lighting, and other**
3 **deterrent measures;**

4 **[“(B) security assessments;**

5 **[“(C) security training of per-**
6 **sonnel and students;**

7 **[“(D) coordination with local law**
8 **enforcement; and**

9 **[“(E) any other measure that, in**
10 **the determination of the Attorney**
11 **General, may provide a significant**
12 **improvement in security;**

13 **[“(5) pay for officers hired to perform**
14 **intelligence, anti-terror, or homeland se-**
15 **curity duties exclusively;”]; and**

16 **[(D) by amending paragraph (9)**
17 **(as so redesignated) to read as fol-**
18 **lows:**

19 **[“(8) develop new technologies, in-**
20 **cluding interoperable communications**
21 **technologies, modernized criminal record**
22 **technology, and forensic technology, to**
23 **assist State and local law enforcement**
24 **agencies in reorienting the emphasis of**
25 **their activities from reacting to crime to**

1 preventing crime and to train law en-
2 forcement officers to use such tech-
3 nologies;”;

4 [(4) by redesignating subsections (e)
5 through (k) as subsections (c) through (i),
6 respectively;

7 [(5) in subsection (c) (as so redesign-
8 nated) by striking “subsection (i)” and in-
9 serting “subsection (g)”]; and

10 [(6) by adding at the end the fol-
11 lowing new subsection:

12 [“(j) MATCHING FUNDS FOR SCHOOL SECU-
13 RITY GRANTS.—Notwithstanding subsection (i),
14 in the case of a grant under subsection (a) for
15 the purposes described in subsection (b)(4)—

16 [“(1) the portion of the costs of a pro-
17 gram provided by that grant may not ex-
18 ceed 50 percent;

19 [“(2) any funds appropriated by Con-
20 gress for the activities of any agency of
21 an Indian tribal government or the Bu-
22 reau of Indian Affairs performing law en-
23 forcement functions on any Indian lands
24 may be used to provide the non-Federal

1 share of a matching requirement funded
2 under this subsection; and

3 [(3) the Attorney General may pro-
4 vide, in the guidelines implementing this
5 section, for the requirement of paragraph
6 (1) to be waived or altered in the case of
7 a recipient with a financial need for such
8 a waiver or alteration.”.

9 [(b) CONFORMING AMENDMENT.—Section
10 1702 of title I of such Act (42 U.S.C. 3796dd-
11 1) is amended in subsection (d)(2) by striking
12 “section 1701(d)” and inserting “section
13 1701(b)”.

14 [(c) AUTHORIZATION OF APPROPRIATIONS.—
15 Section 1001(a)(11) of title I of such Act (42
16 U.S.C. 3793(a)(11)) is amended—

17 [(1) in subparagraph (A) by striking
18 clause (i) and all that follows through the
19 period at the end and inserting the fol-
20 lowing:

21 [(i) \$1,007,624,000 for fiscal year
22 2005;

23 [(ii) \$1,027,176,000 for fiscal year
24 2006; and

1 **[(iii) \$1,047,119,000 for fiscal year**
2 **2007.”; and**

3 **[(2) in subparagraph (B)—**

4 **[(A) by striking “section 1701(f)”**
5 **and inserting “section 1701(d)”;** and

6 **[(B) by striking the third sen-**
7 **tence.**

8 **[Subtitle I—Police Badges**

9 **[SEC. 2201. SHORT TITLE.**

10 **[This subtitle may be cited as the “Badge**
11 **Security Enhancement Act of 2004” .**

12 **[SEC. 2202. POLICE BADGES.**

13 **[Section 716 of title 18, United States**
14 **Code, is amended in subsection (b)—**

15 **[(1) by striking paragraphs (2) and**
16 **(4); and**

17 **[(2) by redesignating paragraph (3) as**
18 **paragraph (2).**

1 **[TITLE III—BORDER SECURITY**
2 **AND TERRORIST TRAVEL**
3 **[Subtitle A—Immigration Reform**
4 **in the National Interest**
5 **[CHAPTER 1—GENERAL PROVISIONS**

6 **[SEC. 3001. ELIMINATING THE “WESTERN HEMISPHERE”**
7 **EXCEPTION FOR CITIZENS.**

8 **[(a) IN GENERAL.—**

9 **[(1) IN GENERAL.—Section 215(b) of**
10 **the Immigration and Nationality Act (8**
11 **U.S.C. 1185(b)) is amended to read as fol-**
12 **lows:**

13 **[“(b)(1) Except as otherwise provided in**
14 **this subsection, it shall be unlawful for any**
15 **citizen of the United States to depart from or**
16 **enter, or attempt to depart from or enter, the**
17 **United States unless the citizen bears a valid**
18 **United States passport.**

19 **[“(2) Subject to such limitations and ex-**
20 **ceptions as the President may authorize and**
21 **prescribe, the President may waive the appli-**
22 **cation of paragraph (1) in the case of a citizen**
23 **departing the United States to, or entering**
24 **the United States from, foreign contiguous**
25 **territory.**

1 **[(3) The President, if waiving the appli-**
2 **cation of paragraph (1) pursuant to para-**
3 **graph (2), shall require citizens departing the**
4 **United States to, or entering the United**
5 **States from, foreign contiguous territory to**
6 **bear a document (or combination of docu-**
7 **ments) designated by the Secretary of Home-**
8 **land Security under paragraph (4).**

9 **[(4) The Secretary of Homeland Secu-**
10 **rity—**

11 **[(A) shall designate documents that**
12 **are sufficient to denote identity and citi-**
13 **zenship in the United States such that**
14 **they may be used, either individually or**
15 **in conjunction with another document, to**
16 **establish that the bearer is a citizen or**
17 **national of the United States for pur-**
18 **poses of lawfully departing from or enter-**
19 **ing the United States; and**

20 **[(B) shall publish a list of those doc-**
21 **uments in the Federal Register.**

22 **[(5) A document may not be designated**
23 **under paragraph (4) (whether alone or in**
24 **combination with other documents) unless**

1 the Secretary of Homeland Security deter-
2 mines that the document—

3 **[(A) may be relied upon for the pur-**
4 **poses of this subsection; and**

5 **[(B) may not be issued to an alien**
6 **unlawfully present in the United States.”.**

7 **[(2) EFFECTIVE DATE.—The amend-**
8 **ment made by paragraph (1) shall take ef-**
9 **fect on October 1, 2006.**

10 **[(b) INTERIM RULE.—**

11 **[(1) IN GENERAL.—Not later than 60**
12 **days after the date of the enactment of**
13 **this Act, the Secretary of Homeland Secu-**
14 **rity—**

15 **[(A) shall designate documents**
16 **that are sufficient to denote identity**
17 **and citizenship in the United States**
18 **such that they may be used, either in-**
19 **dividually or in conjunction with an-**
20 **other document, to establish that the**
21 **bearer is a citizen or national of the**
22 **United States for purposes of lawfully**
23 **departing from or entering the**
24 **United States; and**

1 **[(B) shall publish a list of those**
2 **documents in the Federal Register.**

3 **[(2) LIMITATION ON PRESIDENTIAL AU-**
4 **THORITY.—Beginning on the date that is**
5 **90 days after the publication described in**
6 **paragraph (1)(B), the President, notwith-**
7 **standing section 215(b) of the Immigra-**
8 **tion and Nationality Act (8 U.S.C.**
9 **1185(b)), may not exercise the President’s**
10 **authority under such section so as to per-**
11 **mit any citizen of the United States to de-**
12 **part from or enter, or attempt to depart**
13 **from or enter, the United States from any**
14 **country other than foreign contiguous**
15 **territory, unless the citizen bears a docu-**
16 **ment (or combination of documents) des-**
17 **ignated under paragraph (1)(A).**

18 **[(3) CRITERIA FOR DESIGNATION.—A**
19 **document may not be designated under**
20 **paragraph (1)(A) (whether alone or in**
21 **combination with other documents) un-**
22 **less the Secretary of Homeland Security**
23 **determines that the document—**

24 **[(A) may be relied upon for the**
25 **purposes of this subsection; and**

1 **[(B) may not be issued to an alien**
2 **unlawfully present in the United**
3 **States.**

4 **[(4) EFFECTIVE DATE.—This subsection**
5 **shall take effect on the date of the enact-**
6 **ment of this Act and shall cease to be ef-**
7 **fective on September 30, 2006.**

8 **[SEC. 3002. MODIFICATION OF WAIVER AUTHORITY WITH**
9 **RESPECT TO DOCUMENTATION REQUIRE-**
10 **MENTS FOR NATIONALS OF FOREIGN CON-**
11 **TIGUOUS TERRITORIES AND ADJACENT IS-**
12 **LANDS.**

13 **[(a) IN GENERAL.—Section 212(d)(4) of the**
14 **Immigration and Nationality Act (8 U.S.C.**
15 **1182(d)(4)) is amended—**

16 **[(1) by striking “Attorney General”**
17 **and inserting “Secretary of Homeland Se-**
18 **curity”;**

19 **[(2) by striking “on the basis of reci-**
20 **procity” and all that follows through “or**
21 **(C)”;** and

22 **[(3) by adding at the end the fol-**
23 **lowing:**

24 **“Either or both of the requirements of**
25 **such paragraph may also be waived by**

1 the Secretary of Homeland Security and
2 the Secretary of State, acting jointly and
3 on the basis of reciprocity, with respect
4 to nationals of foreign contiguous terri-
5 tory or of adjacent islands, but only if
6 such nationals are required, in order to
7 be admitted into the United States, to be
8 in possession of identification deemed by
9 the Secretary of Homeland Security to be
10 secure.”.

11 **[(b) EFFECTIVE DATE.—The amendment**
12 **made by subsection (a) shall take effect on De-**
13 **cember 31, 2006.**

14 **[SEC. 3003. INCREASE IN FULL-TIME BORDER PATROL**
15 **AGENTS.**

16 **[The Secretary of Homeland Security, in**
17 **each of fiscal years 2006 through 2010, shall**
18 **increase by not less than 2,000 the number of**
19 **positions for full-time active-duty border pa-**
20 **trol agents within the Department of Home-**
21 **land Security above the number of such posi-**
22 **tions for which funds were allotted for the**
23 **preceding fiscal year.**

1 **[SEC. 3004. INCREASE IN FULL-TIME IMMIGRATION AND**
2 **CUSTOMS ENFORCEMENT INVESTIGATORS.**

3 **[The Secretary of Homeland Security, in**
4 **each of fiscal years 2006 through 2010, shall**
5 **increase by not less than 800 the number of**
6 **positions for full-time active-duty investiga-**
7 **tors within the Department of Homeland Se-**
8 **curity investigating violations of immigration**
9 **laws (as defined in section 101(a)(17) of the**
10 **Immigration and Nationality Act (8 U.S.C.**
11 **1101(a)(17)) above the number of such posi-**
12 **tions for which funds were allotted for the**
13 **preceding fiscal year. At least half of these ad-**
14 **ditional investigators shall be designated to**
15 **investigate potential violations of section**
16 **274A of the Immigration and Nationality Act**
17 **(8 U.S.C 1324a). Each State shall be allotted at**
18 **least 3 of these additional investigators.**

19 **[SEC. 3005. ALIEN IDENTIFICATION STANDARDS.**

20 **[Section 211 of the Immigration and Na-**
21 **tionality Act (8 U.S.C. 1181) is amended by**
22 **adding at the end the following:**

23 **["(d) For purposes of establishing identity**
24 **to any Federal employee, an alien present in**
25 **the United States may present any document**
26 **issued by the Attorney General or the Sec-**

1 retary of Homeland Security under the au-
2 thority of one of the immigration laws (as de-
3 fined in section 101(a)(17)), or an unexpired
4 lawfully issued foreign passport. Subject to
5 the limitations and exceptions in immigration
6 laws (as defined in section 101(a)(17) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(17)), no other document may be pre-
9 sented for those purposes.”.

10 [SEC. 3006. EXPEDITED REMOVAL.

11 [Section 235(b)(1)(A) of the Immigration
12 and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is
13 amended by striking clauses (i) through (iii)
14 and inserting the following:

15 [“(i) IN GENERAL.—If an immi-
16 gration officer determines that an
17 alien (other than an alien de-
18 scribed in subparagraph (F)) who
19 is arriving in the United States,
20 or who has not been admitted or
21 paroled into the United States
22 and has not been physically
23 present in the United States con-
24 tinuously for the 5-year period
25 immediately prior to the date of

1 the determination of inadmis-
2 sibility under this paragraph, is
3 inadmissible under section
4 212(a)(6)(C) or 212(a)(7), the offi-
5 cer shall order the alien removed
6 from the United States without
7 further hearing or review, un-
8 less—

9 [“(I) the alien has been
10 charged with a crime, is in
11 criminal proceedings, or is
12 serving a criminal sentence;
13 or

14 [“(II) the alien indicates
15 an intention to apply for asy-
16 lum under section 208 or a
17 fear of persecution and the of-
18 ficer determines that the
19 alien has been physically
20 present in the United States
21 for less than 1 year.

22 [“(ii) CLAIMS FOR ASYLUM.—If
23 an immigration officer deter-
24 mines that an alien (other than
25 an alien described in subpara-

1 **graph (F)) who is arriving in the**
2 **United States, or who has not**
3 **been admitted or paroled into the**
4 **United States and has not been**
5 **physically present in the United**
6 **States continuously for the 5-year**
7 **period immediately prior to the**
8 **date of the determination of inad-**
9 **missibility under this paragraph,**
10 **is inadmissible under section**
11 **212(a)(6)(C) or 212(a)(7), and the**
12 **alien indicates either an intention**
13 **to apply for asylum under section**
14 **208 or a fear of persecution, the**
15 **officer shall refer the alien for an**
16 **interview by an asylum officer**
17 **under subparagraph (B) if the of-**
18 **ficer determines that the alien**
19 **has been physically present in the**
20 **United States for less than 1**
21 **year.”.**

1 [SEC. 3007. PREVENTING TERRORISTS FROM OBTAINING
2 ASYLUM.

3 [(a) CONDITIONS FOR GRANTING ASYLUM.—
4 Section 208(b) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1158(b)) is amended—

6 [(1) in paragraph (1), by striking “The
7 Attorney General” and inserting the fol-
8 lowing:

9 [“(A) ELIGIBILITY.—The Secretary
10 of Homeland Security or the Attorney
11 General”; and

12 [(2) by adding at the end the fol-
13 lowing:

14 [“(B) BURDEN OF PROOF.—The bur-
15 den of proof is on the applicant to es-
16 tablish that the applicant is a refugee
17 within the meaning of section
18 101(a)(42)(A). To establish that the ap-
19 plicant is a refugee within the mean-
20 ing of this Act, the applicant must es-
21 tablish that race, religion, nation-
22 ality, membership in a particular so-
23 cial group, or political opinion was or
24 will be the central motive for perse-
25 cuting the applicant. The testimony
26 of the applicant may be sufficient to

1 sustain such burden without corrobor-
2 ration, but only if it is credible, is
3 persuasive, and refers to specific
4 facts that demonstrate that the appli-
5 cant is a refugee. Where the trier of
6 fact finds that it is reasonable to ex-
7 pect corroborating evidence for cer-
8 tain alleged facts pertaining to the
9 specifics of the applicant's claim,
10 such evidence must be provided un-
11 less a reasonable explanation is given
12 as to why such information is not
13 provided. The credibility determina-
14 tion of the trier of fact may be based,
15 in addition to other factors, on the
16 demeanor, candor, or responsiveness
17 of the applicant or witness, the con-
18 sistency between the applicant's or
19 witness's written and oral statements,
20 whether or not under oath, made at
21 any time to any officer, agent, or em-
22 ployee of the United States, the inter-
23 nal consistency of each such state-
24 ment, the consistency of such state-
25 ments with the country conditions in

1 the country from which the applicant
2 claims asylum (as presented by the
3 Department of State) and any inac-
4 curacies or falsehoods in such state-
5 ments. These factors may be consid-
6 ered individually or cumulatively.”.

7 **[(b) STANDARD OF REVIEW FOR ORDERS OF**
8 **REMOVAL.—Section 242(b)(4) of the Immigra-**
9 **tion and Nationality Act (8 U.S.C. 1252(b)(4))**
10 **is amended by adding after subparagraph (D)**
11 **the following flush language: “No court shall**
12 **reverse a determination made by an adjudi-**
13 **cator with respect to the availability of cor-**
14 **roborating evidence as described in section**
15 **208(b)(1)(B), unless the court finds that a rea-**
16 **sonable adjudicator is compelled to conclude**
17 **that such corroborating evidence is unavail-**
18 **able.”.**

19 **[(c) EFFECTIVE DATE.—The amendment**
20 **made by subsection (b) shall take effect upon**
21 **the date of enactment of this Act and shall**
22 **apply to cases in which the final administra-**
23 **tive removal order was issued before, on, or**
24 **after the date of enactment of this Act.**

1 [SEC. 3008. REVOCATION OF VISAS AND OTHER TRAVEL
2 DOCUMENTATION.

3 [(a) LIMITATION ON REVIEW.—Section 221(i)
4 of the Immigration and Nationality Act (8
5 U.S.C. 1201(i)) is amended by adding at the
6 end the following: “There shall be no means
7 of administrative or judicial review of a rev-
8 ocation under this subsection, and no court or
9 other person otherwise shall have jurisdiction
10 to consider any claim challenging the validity
11 of such a revocation.”.

12 [(b) CLASSES OF DEPORTABLE ALIENS.—Sec-
13 tion 237(a)(1)(B) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1227(a)(1)(B)) is amend-
15 ed by striking “United States is” and inserting
16 the following: “United States, or whose non-
17 immigrant visa (or other documentation au-
18 thorizing admission into the United States as
19 a nonimmigrant) has been revoked under sec-
20 tion 221(i), is”.

21 [(c) REVOCATION OF PETITIONS.—Section
22 205 of the Immigration and Nationality Act (8
23 U.S.C. 1155) is amended—

24 [(1) by striking “Attorney General”
25 and inserting “Secretary of Homeland Se-
26 curity”; and

1 **[(2) by striking the final two sen-**
2 **tences.**

3 **[(d) EFFECTIVE DATE.—The amendments**
4 **made by this section shall take effect on the**
5 **date of the enactment of this Act and shall**
6 **apply to revocations under sections 205 and**
7 **221(i) of the Immigration and Nationality Act**
8 **made before, on, or after such date.**

9 **[SEC. 3009. JUDICIAL REVIEW OF ORDERS OF REMOVAL.**

10 **[(a) IN GENERAL.—Section 242 of the Immi-**
11 **gration and Nationality Act (8 U.S.C. 1252) is**
12 **amended—**

13 **[(1) in subsection (a)—**

14 **[(A) in paragraph (2)—**

15 **[(i) in subparagraphs (A), (B),**
16 **and (C), by inserting “(statutory**
17 **and nonstatutory), including sec-**
18 **tion 2241 of title 28, United States**
19 **Code, or any other habeas corpus**
20 **provision, and sections 1361 and**
21 **1651 of title 28, United States**
22 **Code” after “Notwithstanding any**
23 **other provision of law”; and**

24 **[(ii) by adding at the end the**
25 **following:**

1 **[(D) JUDICIAL REVIEW OF CERTAIN**
2 **LEGAL CLAIMS.—Nothing in this para-**
3 **graph shall be construed as pre-**
4 **cluding consideration by the circuit**
5 **courts of appeals of constitutional**
6 **claims or pure questions of law raised**
7 **upon petitions for review filed in ac-**
8 **cordance with this section. Notwith-**
9 **standing any other provision of law**
10 **(statutory and nonstatutory), includ-**
11 **ing section 2241 of title 28, United**
12 **States Code, or, except as provided in**
13 **subsection (e), any other habeas cor-**
14 **pus provision, and sections 1361 and**
15 **1651 of title 28, United States Code,**
16 **such petitions for review shall be the**
17 **sole and exclusive means of raising**
18 **any and all claims with respect to or-**
19 **ders of removal entered or issued**
20 **under any provision of this Act.”; and**

21 **[(B) by adding at the end the fol-**
22 **lowing:**

23 **[(4) CLAIMS UNDER THE UNITED NA-**
24 **TIONS CONVENTION.—Notwithstanding any**
25 **other provision of law (statutory and**

1 nonstatutory), including section 2241 of
2 title 28, United States Code, or any other
3 habeas corpus provision, and sections
4 1361 and 1651 of title 28, United States
5 Code, a petition for review by the circuit
6 courts of appeals filed in accordance with
7 this section is the sole and exclusive
8 means of judicial review of claims arising
9 under the United Nations Convention
10 Against Torture and Other Forms of
11 Cruel, Inhuman, or Degrading Treatment
12 or Punishment.

13 [“(5) EXCLUSIVE MEANS OF REVIEW.—
14 The judicial review specified in this sub-
15 section shall be the sole and exclusive
16 means for review by any court of an
17 order of removal entered or issued under
18 any provision of this Act. For purposes of
19 this title, in every provision that limits or
20 eliminates judicial review or jurisdiction
21 to review, the terms ‘judicial review’ and
22 ‘jurisdiction to review’ include habeas
23 corpus review pursuant to section 2241 of
24 title 28, United States Code, or any other
25 habeas corpus provision, sections 1361

1 **and 1651 of title 28, United States Code,**
2 **and review pursuant to any other provi-**
3 **sion of law.”;**

4 **[(2) in subsection (b)—**

5 **[(A) in paragraph (3)(B), by in-**
6 **serting “pursuant to subsection (f)”**
7 **after “unless”; and**

8 **[(B) in paragraph (9), by adding**
9 **at the end the following: “Except as**
10 **otherwise provided in this sub-**
11 **section, no court shall have jurisdic-**
12 **tion, by habeas corpus under section**
13 **2241 of title 28, United States Code, or**
14 **any other habeas corpus provision,**
15 **by section 1361 or 1651 of title 28,**
16 **United States Code, or by any other**
17 **provision of law (statutory or non-**
18 **statutory), to hear any cause or claim**
19 **subject to these consolidation provi-**
20 **sions.”;**

21 **[(3) in subsection (f)(2), by inserting**
22 **“or stay, by temporary or permanent**
23 **order, including stays pending judicial**
24 **review,” after “no court shall enjoin”; and**

1 **[(4) in subsection (g), by inserting**
2 **“(statutory and nonstatutory), including**
3 **section 2241 of title 28, United States**
4 **Code, or any other habeas corpus provi-**
5 **sion, and sections 1361 and 1651 of title**
6 **28, United States Code” after “notwith-**
7 **standing any other provision of law”.**

8 **[(b) EFFECTIVE DATE.—The amendments**
9 **made by subsection (a) shall take effect upon**
10 **the date of enactment of this Act and shall**
11 **apply to cases in which the final administra-**
12 **tive removal order was issued before, on, or**
13 **after the date of enactment of this Act.**

14 **[CHAPTER 2—DEPORTATION OF TERROR-**
15 **ISTS AND SUPPORTERS OF TER-**
16 **RORISM**

17 **[SEC. 3031. EXPANDED INAPPLICABILITY OF RESTRICTION**
18 **ON REMOVAL.**

19 **[(a) IN GENERAL.—Section 241(b)(3)(B) (8**
20 **U.S.C. 1231(b)(3)(B)) is amended—**

21 **[(1) in the matter preceding clause**
22 **(i), by striking “section 237(a)(4)(D)” and**
23 **inserting “paragraph (4)(B) or (4)(D) of**
24 **section 237(a)”;** and

25 **[(2) in clause (iii), by striking “or”;**

1 **[(3) in clause (iv), by striking the pe-**
2 **riod and inserting “; or” ;**

3 **[(4) by inserting after clause (iv) and**
4 **following:**

5 **[(“v) the alien is described in**
6 **subclause (I), (II), (III), (IV), or**
7 **(VI) of section 212(a)(3)(B)(i) or**
8 **section 237(a)(4)(B), unless, in the**
9 **case only of an alien described in**
10 **subclause (IV) of section**
11 **212(a)(3)(B)(i), the Secretary of**
12 **Homeland Security determines, in**
13 **the Secretary’s discretion, that**
14 **there are not reasonable grounds**
15 **for regarding the alien as a dan-**
16 **ger to the security of the United**
17 **States.”; and**

18 **[(5) by striking the last sentence.**

19 **[(b) EXCEPTIONS.—Section 208(b)(2)(A)(v)**
20 **of the Immigration and Nationality Act (8**
21 **U.S.C. 1158(b)(2)(A)(v)) is amended—**

22 **[(1) by striking “inadmissible under”**
23 **each place such term appears and insert-**
24 **ing “described in”; and**

25 **[(2) by striking “removable under”.**

1 **[(c) EFFECTIVE DATE.—The amendments**
2 **made by this section shall take effect on the**
3 **date of the enactment of this Act and shall**
4 **apply to—**

5 **[(1) removal proceedings instituted**
6 **before, on, or after the date of the enact-**
7 **ment of this Act; and**

8 **[(2) acts and conditions constituting**
9 **a ground for inadmissibility or removal**
10 **occurring or existing before, on, or after**
11 **such date.**

12 **[SEC. 3032. EXCEPTION TO RESTRICTION ON REMOVAL FOR**
13 **TERRORISTS AND CRIMINALS.**

14 **[(a) REGULATIONS.—**

15 **[(1) REVISION DEADLINE.—Not later**
16 **than 120 days after the date of the enact-**
17 **ment of this Act, the Secretary of Home-**
18 **land Security shall revise the regulations**
19 **prescribed by the Secretary to implement**
20 **the United Nations Convention Against**
21 **Torture and Other Forms of Cruel, Inhu-**
22 **man or Degrading Treatment or Punish-**
23 **ment, done at New York on December 10,**
24 **1984.**

1 **[(2) EXCLUSION OF CERTAIN ALIENS.—**

2 **The revision—**

3 **[(A) shall exclude from the pro-**
4 **tection of such regulations aliens de-**
5 **scribed in section 241(b)(3)(B) of the**
6 **Immigration and Nationality Act (8**
7 **U.S.C. 1231(b)(3)(B)) (as amended by**
8 **this title), including rendering such**
9 **aliens ineligible for withholding or**
10 **deferral of removal under the Con-**
11 **vention; and**

12 **[(B) shall ensure that the revised**
13 **regulations operate so as to—**

14 **[(i) allow for the reopening of**
15 **determinations made under the**
16 **regulations before the effective**
17 **date of the revision; and**

18 **[(ii) apply to acts and condi-**
19 **tions constituting a ground for in-**
20 **eligibility for the protection of**
21 **such regulations, as revised, re-**
22 **gardless of when such acts or con-**
23 **ditions occurred.**

24 **[(3) BURDEN OF PROOF.—The revision**
25 **shall also ensure that the burden of proof**

1 is on the applicant for withholding or de-
2 ferral of removal under the Convention
3 to establish by clear and convincing evi-
4 dence that he or she would be tortured if
5 removed to the proposed country of re-
6 moval.

7 **[(b) JUDICIAL REVIEW.—**Notwithstanding
8 any other provision of law, no court shall
9 have jurisdiction to review the regulations
10 adopted to implement this section, and noth-
11 ing in this section shall be construed as pro-
12 viding any court jurisdiction to consider or
13 review claims raised under the Convention or
14 this section, except as part of the review of a
15 final order of removal pursuant to section 242
16 of the Immigration and Nationality Act (8
17 U.S.C. 1252).

18 **[SEC. 3033. ADDITIONAL REMOVAL AUTHORITIES.**

19 **[(a) IN GENERAL.—**Section 241(b) of the Im-
20 migration and Nationality Act (8 U.S.C.
21 1231(b)) is amended—

22 **[(1) in paragraph (1)—**

23 **[(A) in each of subparagraphs (A)**
24 **and (B), by striking the period at the**
25 **end and inserting “unless, in the**

1 **opinion of the Secretary of Homeland**
2 **Security, removing the alien to such**
3 **country would be prejudicial to the**
4 **United States.”; and**

5 **[(B) by amending subparagraph**
6 **(C) to read as follows:**

7 **[“(C) ALTERNATIVE COUNTRIES.—If**
8 **the alien is not removed to a country**
9 **designated in subparagraph (A) or**
10 **(B), the Secretary of Homeland Secu-**
11 **rity shall remove the alien to—**

12 **[“(i) the country of which the**
13 **alien is a citizen, subject, or na-**
14 **tional, where the alien was born,**
15 **or where the alien has a resi-**
16 **dence, unless the country phys-**
17 **ically prevents the alien from en-**
18 **tering the country upon the**
19 **alien’s removal there; or**

20 **[“(ii) any country whose gov-**
21 **ernment will accept the alien into**
22 **that country.”; and**

23 **[(2) in paragraph (2)—**

24 **[(A) by striking “Attorney Gen-**
25 **eral” each place such term appears**

1 **and inserting “Secretary of Homeland**
2 **Security”;**

3 **[(B) by amending subparagraph**
4 **(D) to read as follows:**

5 **[“(D) ALTERNATIVE COUNTRIES.—If**
6 **the alien is not removed to a country**
7 **designated under subparagraph**
8 **(A)(i), the Secretary of Homeland Se-**
9 **curity shall remove the alien to a**
10 **country of which the alien is a sub-**
11 **ject, national, or citizen, or where the**
12 **alien has a residence, unless—**

13 **[“(i) such country physically**
14 **prevents the alien from entering**
15 **the country upon the alien’s re-**
16 **moval there; or**

17 **[“(ii) in the opinion of the**
18 **Secretary of Homeland Security,**
19 **removing the alien to the country**
20 **would be prejudicial to the**
21 **United States.”; and**

22 **[(C) by amending subparagraph**
23 **(E)(vii) to read as follows:**

1 **[(“vii) Any country whose**
2 **government will accept the alien**
3 **into that country.”.**

4 **[(b) EFFECTIVE DATE.—The amendments**
5 **made by subsection (a) shall take effect on the**
6 **date of the enactment of this Act and shall**
7 **apply to any deportation, exclusion, or re-**
8 **moval on or after such date pursuant to any**
9 **deportation, exclusion, or removal order, re-**
10 **gardless of whether such order is administra-**
11 **tively final before, on, or after such date.**

12 **[CHAPTER 3—PREVENTING COMMERCIAL**
13 **ALIEN SMUGGLING**

14 **[SEC. 3041. BRINGING IN AND HARBORING CERTAIN**
15 **ALIENS.**

16 **[(a) CRIMINAL PENALTIES.—Section 274(a)**
17 **of the Immigration and Nationality Act (8**
18 **U.S.C. 1324(a)) is amended by adding at the**
19 **end the following:**

20 **[(“(4) In the case of a person who has**
21 **brought aliens into the United States in viola-**
22 **tion of this subsection, the sentence otherwise**
23 **provided for may be increased by up to 10**
24 **years if—**

1 **[(A) the offense was part of an ongoing commercial organization or enterprise;**
2
3

4 **[(B) aliens were transported in groups of 10 or more;**
5

6 **[(C) aliens were transported in a manner that endangered their lives; or**
7

8 **[(D) the aliens presented a life-threatening health risk to people in the United States.”.**
9
10

11 **[(b) OUTREACH PROGRAM.—Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324), as amended by subsection (a), is further amended by adding at the end the following:**
12
13
14

15 **[(f) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation as appropriate with the Attorney General and the Secretary of State, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.**
16
17
18
19
20
21
22

1 **[Subtitle B—Identity Management**
2 **Security**

3 **[CHAPTER 1—IMPROVED SECURITY FOR**
4 **DRIVERS’ LICENSES AND PERSONAL**
5 **IDENTIFICATION CARDS**

6 **[SEC. 3051. DEFINITIONS.**

7 **[In this chapter, the following definitions**
8 **apply:**

9 **[(1) DRIVER’S LICENSE.—The term**
10 **“driver’s license” means a motor vehicle**
11 **operator’s license, as defined in section**
12 **30301 of title 49, United States Code.**

13 **[(2) IDENTIFICATION CARD.—The term**
14 **“identification card” means a personal**
15 **identification card, as defined in section**
16 **1028(d) of title 18, United States Code,**
17 **issued by a State.**

18 **[(3) SECRETARY.—The term “Sec-**
19 **retary” means the Secretary of Homeland**
20 **Security.**

21 **[(4) STATE.—The term “State” means a**
22 **State of the United States, the District of**
23 **Columbia, Puerto Rico, the Virgin Is-**
24 **lands, Guam, American Samoa, the North-**
25 **ern Mariana Islands, the Trust Territory**

1 **of the Pacific Islands, and any other ter-**
2 **ritory or possession of the United States.**

3 **[SEC. 3052. MINIMUM DOCUMENT REQUIREMENTS AND**
4 **ISSUANCE STANDARDS FOR FEDERAL REC-**
5 **OGNITION.**

6 **[(a) MINIMUM STANDARDS FOR FEDERAL**
7 **USE.—**

8 **[(1) IN GENERAL.—Beginning 3 years**
9 **after the date of enactment of this Act, a**
10 **Federal agency may not accept, for any**
11 **official purpose, a driver's license or**
12 **identification card issued by a State to**
13 **any person unless the State is meeting**
14 **the requirements of this section.**

15 **[(2) STATE CERTIFICATIONS.—The Sec-**
16 **retary shall determine whether a State is**
17 **meeting the requirements of this section**
18 **based on certifications made by the State**
19 **to the Secretary. Such certifications shall**
20 **be made at such times and in such man-**
21 **ner as the Secretary, in consultation with**
22 **the Secretary of Transportation, may pre-**
23 **scribe by regulation.**

24 **[(b) MINIMUM DOCUMENT REQUIREMENTS.—**
25 **To meet the requirements of this section, a**

1 State shall include, at a minimum, the fol-
2 lowing information and features on each driv-
3 er's license and identification card issued to
4 a person by the State:

5 [(1) The person's full legal name.

6 [(2) The person's date of birth.

7 [(3) The person's gender.

8 [(4) The person's driver license or
9 identification card number.

10 [(5) A photograph of the person.

11 [(6) The person's address of principal
12 residence.

13 [(7) The person's signature.

14 [(8) Physical security features de-
15 signed to prevent tampering, counter-
16 feiting, or duplication of the document
17 for fraudulent purposes.

18 [(9) A common machine-readable
19 technology, with defined minimum data
20 elements.

21 [(c) MINIMUM ISSUANCE STANDARDS.—

22 [(1) IN GENERAL.—To meet the re-
23 quirements of this section, a State shall
24 require, at a minimum, presentation and
25 verification of the following information

1 **before issuing a driver's license or identi-**
2 **fication card to a person:**

3 **[(A) A photo identity document,**
4 **except that a non-photo identity doc-**
5 **ument is acceptable if it includes**
6 **both the person's full legal name and**
7 **date of birth.**

8 **[(B) Documentation showing the**
9 **person's date of birth.**

10 **[(C) Proof of the person's social**
11 **security account number or**
12 **verification that the person is not eli-**
13 **gible for a social security account**
14 **number.**

15 **[(D) Documentation showing the**
16 **person's name and address of prin-**
17 **cipal residence.**

18 **[(2) VERIFICATION OF DOCUMENTS.—To**
19 **meet the requirements of this section, a**
20 **State shall implement the following pro-**
21 **cedures:**

22 **[(A) Before issuing a driver's li-**
23 **cense or identification card to a per-**
24 **son, the State shall verify, with the**
25 **issuing agency, the issuance, validity,**

1 **and completeness of each document**
2 **required to be presented by the per-**
3 **son under paragraph (1).**

4 **[(B) The State shall not accept**
5 **any foreign document, other than an**
6 **official passport, to satisfy a require-**
7 **ment of paragraph (1).**

8 **[(d) OTHER REQUIREMENTS.—To meet the**
9 **requirements of this section, a State shall**
10 **adopt the following practices in the issuance**
11 **of drivers' licenses and identification cards:**

12 **[(1) Employ technology to capture**
13 **digital images of identity source docu-**
14 **ments so that the images can be retained**
15 **in electronic storage in a transferable**
16 **format.**

17 **[(2) Retain paper copies of source**
18 **documents for a minimum of 7 years or**
19 **images of source documents presented**
20 **for a minimum of 10 years.**

21 **[(3) Subject each person applying for**
22 **a driver's license or identification card to**
23 **mandatory facial image capture.**

1 **[(4) Establish an effective procedure**
2 **to confirm or verify a renewing appli-**
3 **cant's information.**

4 **[(5) Confirm with the Social Security**
5 **Administration a social security account**
6 **number presented by a person using the**
7 **full social security account number. In**
8 **the event that a social security account**
9 **number is already registered to or associ-**
10 **ated with another person to which any**
11 **State has issued a driver's license or**
12 **identification card, the State shall re-**
13 **solve the discrepancy and take appro-**
14 **priate action.**

15 **[(6) Refuse to issue a driver's license**
16 **or identification card to a person holding**
17 **a driver's license issued by another State**
18 **without confirmation that the person is**
19 **terminating or has terminated the driv-**
20 **er's license.**

21 **[(7) Ensure the physical security of**
22 **locations where drivers' licenses and**
23 **identification cards are produced and the**
24 **security of document materials and pa-**

1 pers from which drivers' licenses and
2 identification cards are produced.

3 **[(8) Subject all persons authorized to**
4 **manufacture or produce drivers' licenses**
5 **and identification cards to appropriate**
6 **security clearance requirements.**

7 **[(9) Establish fraudulent document**
8 **recognition training programs for appro-**
9 **priate employees engaged in the issuance**
10 **of drivers' licenses and identification**
11 **cards.**

12 **[SEC. 3053. LINKING OF DATABASES.**

13 **[(a) IN GENERAL.—To be eligible to receive**
14 **any grant or other type of financial assistance**
15 **made available under this subtitle, a State**
16 **shall participate in the interstate compact re-**
17 **garding sharing of driver license data, known**
18 **as the “Driver License Agreement”, in order**
19 **to provide electronic access by a State to in-**
20 **formation contained in the motor vehicle**
21 **databases of all other States.**

22 **[(b) REQUIREMENTS FOR INFORMATION.—A**
23 **State motor vehicle database shall contain, at**
24 **a minimum, the following information:**

1 **[(1) All data fields printed on drivers’**
2 **licenses and identification cards issued**
3 **by the State.**

4 **[(2) Motor vehicle drivers’ histories,**
5 **including motor vehicle violations, sus-**
6 **pensions, and points on licenses.**

7 **[SEC. 3054. TRAFFICKING IN AUTHENTICATION FEATURES**
8 **FOR USE IN FALSE IDENTIFICATION DOCU-**
9 **MENTS.**

10 **[Section 1028(a)(8) of title 18, United**
11 **States Code, is amended by striking “false au-**
12 **thentication features” and inserting “false or**
13 **actual authentication features”.**

14 **[SEC. 3055. GRANTS TO STATES.**

15 **[(a) IN GENERAL.—The Secretary may**
16 **make grants to a State to assist the State in**
17 **conforming to the minimum standards set**
18 **forth in this chapter.**

19 **[(b) AUTHORIZATION OF APPROPRIATIONS.—**
20 **There are authorized to be appropriated to**
21 **the Secretary for each of the fiscal years 2005**
22 **through 2009 such sums as may be necessary**
23 **to carry out this chapter.**

1 [SEC. 3056. AUTHORITY.

2 [(a) PARTICIPATION OF SECRETARY OF
3 TRANSPORTATION AND STATES.—All authority to
4 issue regulations, certify standards, and issue
5 grants under this chapter shall be carried out
6 by the Secretary, in consultation with the Sec-
7 retary of Transportation and the States.

8 [(b) EXTENSIONS OF DEADLINES.—The Sec-
9 retary may grant to a State an extension of
10 time to meet the requirements of section
11 3052(a)(1) if the State provides adequate jus-
12 tification for noncompliance.

13 [CHAPTER 2—IMPROVED SECURITY FOR
14 BIRTH CERTIFICATES

15 [SEC. 3061. DEFINITIONS.

16 [(a) APPLICABILITY OF DEFINITIONS.—Ex-
17 cept as otherwise specifically provided, the
18 definitions contained in section 3051 apply to
19 this chapter.

20 [(b) OTHER DEFINITIONS.—In this chapter,
21 the following definitions apply:

22 [(1) BIRTH CERTIFICATE.—The term
23 “birth certificate” means a certificate of
24 birth—

25 [(A) for an individual (regardless
26 of where born)—

1 **[(i) who is a citizen or na-**
2 **tional of the United States at**
3 **birth; and**

4 **[(ii) whose birth is registered**
5 **in the United States; and**

6 **[(B) that—**

7 **[(i) is issued by a Federal,**
8 **State, or local government agency**
9 **or authorized custodian of record**
10 **and produced from birth records**
11 **maintained by such agency or**
12 **custodian of record; or**

13 **[(ii) is an authenticated copy,**
14 **issued by a Federal, State, or**
15 **local government agency or au-**
16 **thorized custodian of record, of**
17 **an original certificate of birth**
18 **issued by such agency or custo-**
19 **dian of record.**

20 **[(2) REGISTRANT.—The term “reg-**
21 **istrant” means, with respect to a birth**
22 **certificate, the person whose birth is reg-**
23 **istered on the certificate.**

24 **[(3) STATE.—The term “State” shall**
25 **have the meaning given such term in sec-**

1 **tion 3051; except that New York City**
2 **shall be treated as a State separate from**
3 **New York.**

4 **[SEC. 3062. APPLICABILITY OF MINIMUM STANDARDS TO**
5 **LOCAL GOVERNMENTS.**

6 **[The minimum standards in this chapter**
7 **applicable to birth certificates issued by a**
8 **State shall also apply to birth certificates**
9 **issued by a local government in the State. It**
10 **shall be the responsibility of the State to en-**
11 **sure that local governments in the State com-**
12 **ply with the minimum standards.**

13 **[SEC. 3063. MINIMUM STANDARDS FOR FEDERAL RECOGNI-**
14 **TION.**

15 **[(a) MINIMUM STANDARDS FOR FEDERAL**
16 **USE.—**

17 **[(1) IN GENERAL.—Beginning 3 years**
18 **after the date of enactment of this Act, a**
19 **Federal agency may not accept, for any**
20 **official purpose, a birth certificate issued**
21 **by a State to any person unless the State**
22 **is meeting the requirements of this sec-**
23 **tion.**

24 **[(2) STATE CERTIFICATIONS.—The Sec-**
25 **retary shall determine whether a State is**

1 **meeting the requirements of this section**
2 **based on certifications made by the State**
3 **to the Secretary. Such certifications shall**
4 **be made at such times and in such man-**
5 **ner as the Secretary, in consultation with**
6 **the Secretary of Health and Human Serv-**
7 **ices, may prescribe by regulation.**

8 **[(b) MINIMUM DOCUMENT STANDARDS.—To**
9 **meet the requirements of this section, a State**
10 **shall include, on each birth certificate issued**
11 **to a person by the State, the use of safety**
12 **paper, the seal of the issuing custodian of**
13 **record, and such other features as the Sec-**
14 **retary may determine necessary to prevent**
15 **tampering, counterfeiting, and otherwise du-**
16 **plicating the birth certificate for fraudulent**
17 **purposes. The Secretary may not require a**
18 **single design to which birth certificates**
19 **issued by all States must conform.**

20 **[(c) MINIMUM ISSUANCE STANDARDS.—**

21 **[(1) IN GENERAL.—To meet the re-**
22 **quirements of this section, a State shall**
23 **require and verify the following informa-**
24 **tion from the requestor before issuing an**
25 **authenticated copy of a birth certificate:**

1 **[(A) The name on the birth cer-**
2 **tificate.**

3 **[(B) The date and location of the**
4 **birth.**

5 **[(C) The mother's maiden name.**

6 **[(D) Substantial proof of the re-**
7 **questor's identity.**

8 **[(2) ISSUANCE TO PERSONS NOT NAMED**
9 **ON BIRTH CERTIFICATE.—To meet the re-**
10 **quirements of this section, in the case of**
11 **a request by a person who is not named**
12 **on the birth certificate, a State must re-**
13 **quire the presentation of legal authoriza-**
14 **tion to request the birth certificate be-**
15 **fore issuance.**

16 **[(3) ISSUANCE TO FAMILY MEMBERS.—**
17 **Not later than one year after the date of**
18 **enactment of this Act, the Secretary, in**
19 **consultation with the Secretary of Health**
20 **and Human Services and the States, shall**
21 **establish minimum standards for**
22 **issuance of a birth certificate to specific**
23 **family members, their authorized rep-**
24 **resentatives, and others who demonstrate**
25 **that the certificate is needed for the pro-**

1 tection of the requestor's personal or
2 property rights.

3 **[(4) WAIVERS.—A State may waive the**
4 **requirements set forth in subparagraphs**
5 **(A) through (C) of subsection (c)(1) in ex-**
6 **ceptional circumstances, such as the in-**
7 **capacitation of the registrant.**

8 **[(5) APPLICATIONS BY ELECTRONIC**
9 **MEANS.—To meet the requirements of this**
10 **section, for applications by electronic**
11 **means, through the mail or by phone or**
12 **fax, a State shall employ third party**
13 **verification, or equivalent verification, of**
14 **the identity of the requestor.**

15 **[(6) VERIFICATION OF DOCUMENTS.—To**
16 **meet the requirements of this section, a**
17 **State shall verify the documents used to**
18 **provide proof of identity of the requestor.**

19 **[(d) OTHER REQUIREMENTS.—To meet the**
20 **requirements of this section, a State shall**
21 **adopt, at a minimum, the following practices**
22 **in the issuance and administration of birth**
23 **certificates:**

1 **[(1) Establish and implement min-**
2 **imum building security standards for**
3 **State and local vital record offices.**

4 **[(2) Restrict public access to birth**
5 **certificates and information gathered in**
6 **the issuance process to ensure that ac-**
7 **cess is restricted to entities with which**
8 **the State has a binding privacy protec-**
9 **tion agreement.**

10 **[(3) Subject all persons with access to**
11 **vital records to appropriate security**
12 **clearance requirements.**

13 **[(4) Establish fraudulent document**
14 **recognition training programs for appro-**
15 **priate employees engaged in the issuance**
16 **process.**

17 **[(5) Establish and implement internal**
18 **operating system standards for paper and**
19 **for electronic systems.**

20 **[(6) Establish a central database that**
21 **can provide interoperative data exchange**
22 **with other States and with Federal agen-**
23 **cies, subject to privacy restrictions and**
24 **confirmation of the authority and iden-**
25 **tity of the requestor.**

1 **[(7) Ensure that birth and death**
2 **records are matched in a comprehensive**
3 **and timely manner, and that all elec-**
4 **tronic birth records and paper birth cer-**
5 **tificates of decedents are marked “de-**
6 **ceased”.**

7 **[(8) Cooperate with the Secretary in**
8 **the implementation of electronic**
9 **verification of vital events under section**
10 **3065.**

11 **[SEC. 3064. ESTABLISHMENT OF ELECTRONIC BIRTH AND**
12 **DEATH REGISTRATION SYSTEMS.**

13 **[In consultation with the Secretary of**
14 **Health and Human Services and the Commis-**
15 **sioner of Social Security, the Secretary shall**
16 **take the following actions:**

17 **[(1) Work with the States to establish**
18 **a common data set and common data ex-**
19 **change protocol for electronic birth reg-**
20 **istration systems and death registration**
21 **systems.**

22 **[(2) Coordinate requirements for**
23 **such systems to align with a national**
24 **model.**

1 **[(3) Ensure that fraud prevention is**
2 **built into the design of electronic vital**
3 **registration systems in the collection of**
4 **vital event data, the issuance of birth cer-**
5 **tificates, and the exchange of data among**
6 **government agencies.**

7 **[(4) Ensure that electronic systems**
8 **for issuing birth certificates, in the form**
9 **of printed abstracts of birth records or**
10 **digitized images, employ a common for-**
11 **mat of the certified copy, so that those re-**
12 **quiring such documents can quickly con-**
13 **firm their validity.**

14 **[(5) Establish uniform field require-**
15 **ments for State birth registries.**

16 **[(6) Not later than 1 year after the**
17 **date of enactment of this Act, establish a**
18 **process with the Department of Defense**
19 **that will result in the sharing of data,**
20 **with the States and the Social Security**
21 **Administration, regarding deaths of**
22 **United States military personnel and the**
23 **birth and death of their dependents.**

24 **[(7) Not later than 1 year after the**
25 **date of enactment of this Act, establish a**

1 process with the Department of State to
2 improve registration, notification, and
3 the sharing of data with the States and
4 the Social Security Administration, re-
5 garding births and deaths of United
6 States citizens abroad.

7 [(8) Not later than 3 years after the
8 date of establishment of databases pro-
9 vided for under this section, require
10 States to record and retain electronic
11 records of pertinent identification infor-
12 mation collected from requestors who are
13 not the registrants.

14 [(9) Not later than 6 months after the
15 date of enactment of this Act, submit to
16 Congress, a report on whether there is a
17 need for Federal laws to address pen-
18 alties for fraud and misuse of vital
19 records and whether violations are suffi-
20 ciently enforced.

21 [SEC. 3065. ELECTRONIC VERIFICATION OF VITAL EVENTS.

22 [(a) LEAD AGENCY.—The Secretary shall
23 lead the implementation of electronic
24 verification of a person's birth and death.

1 **[(b) REGULATIONS.—In carrying out sub-**
2 **section (a), the Secretary shall issue regula-**
3 **tions to establish a means by which author-**
4 **ized Federal and State agency users with a**
5 **single interface will be able to generate an**
6 **electronic query to any participating vital**
7 **records jurisdiction throughout the Nation to**
8 **verify the contents of a paper birth certifi-**
9 **cate. Pursuant to the regulations, an elec-**
10 **tronic response from the participating vital**
11 **records jurisdiction as to whether there is a**
12 **birth record in their database that matches**
13 **the paper birth certificate will be returned to**
14 **the user, along with an indication if the**
15 **matching birth record has been flagged “de-**
16 **ceased”. The regulations shall take effect not**
17 **later than 5 years after the date of enactment**
18 **of this Act.**

19 **[SEC. 3066. GRANTS TO STATES.**

20 **[(a) IN GENERAL.—The Secretary may**
21 **make grants to a State to assist the State in**
22 **conforming to the minimum standards set**
23 **forth in this chapter.**

24 **[(b) AUTHORIZATION OF APPROPRIATIONS.—**
25 **There are authorized to be appropriated to**

1 the Secretary for each of the fiscal years 2005
2 through 2009 such sums as may be necessary
3 to carry out this chapter.

4 [SEC. 3067. AUTHORITY.

5 [(a) PARTICIPATION WITH FEDERAL AGEN-
6 CIES AND STATES.—All authority to issue regu-
7 lations, certify standards, and issue grants
8 under this chapter shall be carried out by the
9 Secretary, with the concurrence of the Sec-
10 retary of Health and Human Services and in
11 consultation with State vital statistics offices
12 and appropriate Federal agencies.

13 [(b) EXTENSIONS OF DEADLINES.—The Sec-
14 retary may grant to a State an extension of
15 time to meet the requirements of section
16 3063(a)(1) if the State provides adequate jus-
17 tification for noncompliance.

1 **[CHAPTER 3—MEASURES TO ENHANCE**
2 **PRIVACY AND INTEGRITY OF SOCIAL**
3 **SECURITY ACCOUNT NUMBERS**

4 **[SEC. 3071. PROHIBITION OF THE DISPLAY OF SOCIAL SE-**
5 **CURITY ACCOUNT NUMBERS ON DRIVER'S LI-**
6 **CENSES OR MOTOR VEHICLE REGISTRA-**
7 **TIONS.**

8 **[(a) IN GENERAL.—Section 205(c)(2)(C)(vi)**
9 **of the Social Security Act (42 U.S.C.**
10 **405(c)(2)(C)(vi)) is amended—**

11 **[(1) by inserting “(I)” after “(vi)”; and**

12 **[(2) by adding at the end the fol-**
13 **lowing new subclause:**

14 **[(“II) Any State or political subdivision**
15 **thereof (and any person acting as an agent of**
16 **such an agency or instrumentality), in the ad-**
17 **ministration of any driver’s license or motor**
18 **vehicle registration law within its jurisdic-**
19 **tion, may not display a social security account**
20 **number issued by the Commissioner of Social**
21 **Security (or any derivative of such number)**
22 **on any driver’s license or motor vehicle reg-**
23 **istration or any other document issued by**
24 **such State or political subdivision to an indi-**
25 **vidual for purposes of identification of such**

1 individual or include on any such license, reg-
2 istration, or other document a magnetic strip,
3 bar code, or other means of communication
4 which conveys such number (or derivative
5 thereof).”.

6 [(b) EFFECTIVE DATE.—The amendments
7 made by this section shall apply with respect
8 to licenses, registrations, and other docu-
9 ments issued or reissued after 1 year after the
10 date of the enactment of this Act.

11 [SEC. 3072. INDEPENDENT VERIFICATION OF BIRTH
12 RECORDS PROVIDED IN SUPPORT OF APPLI-
13 CATIONS FOR SOCIAL SECURITY ACCOUNT
14 NUMBERS.

15 [(a) APPLICATIONS FOR SOCIAL SECURITY
16 ACCOUNT NUMBERS.—Section 205(c)(2)(B)(ii) of
17 the Social Security Act (42 U.S.C.
18 405(c)(2)(B)(ii)) is amended—

19 [(1) by inserting “(I)” after “(ii)”; and
20 [(2) by adding at the end the fol-
21 lowing new subclause:

22 [“(II) With respect to an application for a
23 social security account number for an indi-
24 vidual, other than for purposes of enumera-
25 tion at birth, the Commissioner shall require

1 independent verification of any birth record
2 provided by the applicant in support of the
3 application. The Commissioner may provide
4 by regulation for reasonable exceptions from
5 the requirement for independent verification
6 under this subclause in any case in which the
7 Commissioner determines there is minimal
8 opportunity for fraud.”.

9 [(b) EFFECTIVE DATE.—The amendment
10 made by subsection (a) shall apply with re-
11 spect to applications filed after 270 days after
12 the date of the enactment of this Act.

13 [(c) STUDY REGARDING APPLICATIONS FOR
14 REPLACEMENT SOCIAL SECURITY CARDS.—

15 [(1) IN GENERAL.—As soon as prac-
16 ticable after the date of the enactment of
17 this Act, the Commissioner of Social Se-
18 curity shall undertake a study to test the
19 feasibility and cost effectiveness of
20 verifying all identification documents
21 submitted by an applicant for a replace-
22 ment social security card. As part of such
23 study, the Commissioner shall determine
24 the feasibility of, and the costs associated
25 with, the development of appropriate

1 **electronic processes for third party**
2 **verification of any such identification**
3 **documents which are issued by agencies**
4 **and instrumentalities of the Federal Gov-**
5 **ernment and of the States (and political**
6 **subdivisions thereof).**

7 **[(2) REPORT.—Not later than 2 years**
8 **after the date of the enactment of this**
9 **Act, the Commissioner shall report to the**
10 **Committee on Ways and Means of the**
11 **House of Representatives and the Com-**
12 **mittee on Finance of the Senate regard-**
13 **ing the results of the study undertaken**
14 **under paragraph (1). Such report shall**
15 **contain such recommendations for legis-**
16 **lative changes as the Commissioner con-**
17 **siders necessary to implement needed im-**
18 **provements in the process for verifying**
19 **identification documents submitted by**
20 **applicants for replacement social secu-**
21 **rity cards.**

22 **[SEC. 3073. ENUMERATION AT BIRTH.**

23 **[(a) IMPROVEMENT OF APPLICATION PROC-**
24 **ESS.—**

1 **[(1) IN GENERAL.—As soon as prac-**
2 **ticable after the date of the enactment of**
3 **this Act, the Commissioner of Social Se-**
4 **curity shall undertake to make improve-**
5 **ments to the enumeration at birth pro-**
6 **gram for the issuance of social security**
7 **account numbers to newborns. Such im-**
8 **provements shall be designed to pre-**
9 **vent—**

10 **[(A) the assignment of social secu-**
11 **rity account numbers to unnamed**
12 **children;**

13 **[(B) the issuance of more than 1**
14 **social security account number to the**
15 **same child; and**

16 **[(C) other opportunities for**
17 **fraudulently obtaining a social secu-**
18 **rity account number.**

19 **[(2) REPORT TO THE CONGRESS.—Not**
20 **later than 1 year after the date of the en-**
21 **actment of this Act, the Commissioner**
22 **shall transmit to each House of the Con-**
23 **gress a report specifying in detail the ex-**
24 **tent to which the improvements required**
25 **under paragraph (1) have been made.**

1 **[(b) STUDY REGARDING PROCESS FOR ENU-**
2 **MERATION AT BIRTH.—**

3 **[(1) IN GENERAL.—As soon as prac-**
4 **ticable after the date of the enactment of**
5 **this Act, the Commissioner of Social Se-**
6 **curity shall undertake a study to deter-**
7 **mine the most efficient options for ensur-**
8 **ing the integrity of the process for enu-**
9 **meration at birth. Such study shall in-**
10 **clude an examination of available meth-**
11 **ods for reconciling hospital birth records**
12 **with birth registrations submitted to**
13 **agencies of States and political subdivi-**
14 **sions thereof and with information pro-**
15 **vided to the Commissioner as part of the**
16 **process for enumeration at birth.**

17 **[(2) REPORT.—Not later than 18**
18 **months after the date of the enactment of**
19 **this Act, the Commissioner shall report to**
20 **the Committee on Ways and Means of the**
21 **House of Representatives and the Com-**
22 **mittee on Finance of the Senate regard-**
23 **ing the results of the study undertaken**
24 **under paragraph (1). Such report shall**
25 **contain such recommendations for legis-**

1 **lative changes as the Commissioner con-**
2 **siders necessary to implement needed im-**
3 **provements in the process for enumera-**
4 **tion at birth.**

5 **[SEC. 3074. STUDY RELATING TO USE OF PHOTOGRAPHIC**
6 **IDENTIFICATION IN CONNECTION WITH AP-**
7 **PLICATIONS FOR BENEFITS, SOCIAL SECU-**
8 **RITY ACCOUNT NUMBERS, AND SOCIAL SECU-**
9 **RITY CARDS.**

10 **[(a) IN GENERAL.—As soon as practicable**
11 **after the date of the enactment of this Act, the**
12 **Commissioner of Social Security shall under-**
13 **take a study to—**

14 **[(1) determine the best method of re-**
15 **quiring and obtaining photographic iden-**
16 **tification of applicants for old-age, sur-**
17 **vivors, and disability insurance benefits**
18 **under title II of the Social Security Act,**
19 **for a social security account number, or**
20 **for a replacement social security card,**
21 **and of providing for reasonable excep-**
22 **tions to any requirement for photo-**
23 **graphic identification of such applicants**
24 **that may be necessary to promote effi-**

1 **cient and effective administration of such**
2 **title, and**

3 **[(2) evaluate the benefits and costs of**
4 **instituting such a requirement for photo-**
5 **graphic identification, including the de-**
6 **gree to which the security and integrity**
7 **of the old-age, survivors, and disability**
8 **insurance program would be enhanced.**

9 **[(b) REPORT.—Not later than 18 months**
10 **after the date of the enactment of this Act, the**
11 **Commissioner shall report to the Committee**
12 **on Ways and Means of the House of Rep-**
13 **resentatives and the Committee on Finance of**
14 **the Senate regarding the results of the study**
15 **undertaken under subsection (a). Such report**
16 **shall contain such recommendations for legis-**
17 **lative changes as the Commissioner considers**
18 **necessary relating to requirements for photo-**
19 **graphic identification of applicants described**
20 **in subsection (a).**

21 **[SEC. 3075. RESTRICTIONS ON ISSUANCE OF MULTIPLE RE-**
22 **PLACEMENT SOCIAL SECURITY CARDS.**

23 **[(a) IN GENERAL.—Section 205(c)(2)(G) of**
24 **the Social Security Act (42 U.S.C. 405(c)(2)(G))**
25 **is amended by adding at the end the following**

1 new sentence: “The Commissioner shall re-
2 strict the issuance of multiple replacement so-
3 cial security cards to any individual to 3 per
4 year and to 10 for the life of the individual,
5 except in any case in which the Commissioner
6 determines there is minimal opportunity for
7 fraud.”.

8 **[(b) REGULATIONS AND EFFECTIVE DATE.—**
9 **The Commissioner of Social Security shall**
10 **issue regulations under the amendment made**
11 **by subsection (a) not later than 1 year after**
12 **the date of the enactment of this Act. Systems**
13 **controls developed by the Commissioner pur-**
14 **suant to such amendment shall take effect**
15 **upon the earlier of the issuance of such regu-**
16 **lations or the end of such 1-year period.**

17 **[SEC. 3076. STUDY RELATING TO MODIFICATION OF THE**
18 **SOCIAL SECURITY ACCOUNT NUMBERING**
19 **SYSTEM TO SHOW WORK AUTHORIZATION**
20 **STATUS.**

21 **[(a) IN GENERAL.—As soon as practicable**
22 **after the date of the enactment of this Act, the**
23 **Commissioner of Social Security, in consulta-**
24 **tion with the Secretary of Homeland Security,**
25 **shall undertake a study to examine the best**

1 method of modifying the social security ac-
2 count number assigned to individuals who—

3 **[(1) are not citizens of the United**
4 **States,**

5 **[(2) have not been admitted for per-**
6 **manent residence, and**

7 **[(3) are not authorized by the Sec-**
8 **retary of Homeland Security to work in**
9 **the United States, or are so authorized**
10 **subject to one or more restrictions,**

11 **so as to include an indication of such lack of**
12 **authorization to work or such restrictions on**
13 **such an authorization.**

14 **[(b) REPORT.—Not later than 1 year after**
15 **the date of the enactment of this Act, the Com-**
16 **missioner shall report to the Committee on**
17 **Ways and Means of the House of Representa-**
18 **tives and the Committee on Finance of the**
19 **Senate regarding the results of the study un-**
20 **dertaken under this section. Such report shall**
21 **include the Commissioner’s recommendations**
22 **of feasible options for modifying the social se-**
23 **curity account number in the manner de-**
24 **scribed in subsection (a).**

1 **[Subtitle C—Targeting Terrorist**
2 **Travel**

3 **[SEC. 3081. STUDIES ON MACHINE-READABLE PASSPORTS**
4 **AND TRAVEL HISTORY DATABASE.**

5 **[(a) IN GENERAL.—Not later than May 31,**
6 **2005, the Comptroller General of the United**
7 **States, the Secretary of State, and the Sec-**
8 **retary of Homeland Security each shall sub-**
9 **mit to the Committees on the Judiciary of the**
10 **House of Representatives and of the Senate,**
11 **the Committee on International Relations of**
12 **the House of Representatives, and the Com-**
13 **mittee on Foreign Relations of the Senate the**
14 **results of a separate study on the subjects de-**
15 **scribed in subsection (c).**

16 **[(b) STUDY.—The study submitted by the**
17 **Secretary of State under subsection (a) shall**
18 **be completed by the Office of Visa and Pass-**
19 **port Control of the Department of State, in co-**
20 **ordination with the appropriate officials of**
21 **the Department of Homeland Security.**

22 **[(c) CONTENTS.—The studies described in**
23 **subsection (a) shall examine the feasibility,**
24 **cost, potential benefits, and relative impor-**
25 **tance to the objectives of tracking suspected**

1 terrorists' travel, and apprehending sus-
2 pected terrorists, of each of the following:

3 **[(1) Requiring nationals of all coun-**
4 **tries to present machine-readable, tam-**
5 **per-resistant passports that incorporate**
6 **biometric and document authentication**
7 **identifiers.**

8 **[(2) Creation of a database containing**
9 **information on the lifetime travel history**
10 **of each foreign national or United States**
11 **citizen who might seek to enter the**
12 **United States or another country at any**
13 **time, in order that border and visa**
14 **issuance officials may ascertain the trav-**
15 **el history of a prospective entrant by**
16 **means other than a passport.**

17 **[(d) INCENTIVES.—The studies described in**
18 **subsection (a) shall also make recommenda-**
19 **tions on incentives that might be offered to**
20 **encourage foreign nations to participate in**
21 **the initiatives described in paragraphs (1)**
22 **and (2) of subsection (c).**

1 [SEC. 3082. EXPANDED PREINSPECTION AT FOREIGN AIR-
2 PORTS.

3 [(a) IN GENERAL.—Section 235A(a)(4) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1225(a)(4)) is amended—

6 [(1) by striking “October 31, 2000,”
7 and inserting “January 1, 2008,”;

8 [(2) by striking “5 additional” and in-
9 serting “up to 25 additional”;

10 [(3) by striking “number of aliens”
11 and inserting “number of inadmissible
12 aliens, especially aliens who are potential
13 terrorists,”;

14 [(4) by striking “who are inadmissible
15 to the United States.” and inserting a pe-
16 riod; and

17 [(5) by striking “Attorney General”
18 each place such term appears and insert-
19 ing “Secretary of Homeland Security”.

20 [(b) REPORT.—Not later than June 30,
21 2006, the Secretary of Homeland Security and
22 the Secretary of State shall report to the Com-
23 mittees on the Judiciary of the House of Rep-
24 resentatives and of the Senate, the Committee
25 on International Relations of the House of
26 Representatives, and the Committee on For-

1 eign Relations of the Senate on the progress
2 being made in implementing the amendments
3 made by subsection (a).

4 **[(c) AUTHORIZATION OF APPROPRIATIONS.—**
5 **There are authorized to be appropriated to**
6 **the Secretary of Homeland Security to carry**
7 **out the amendments made by subsection (a)—**

8 **[(1) \$24,000,000 for fiscal year 2005;**

9 **[(2) \$48,000,000 for fiscal year 2006;**

10 **and**

11 **[(3) \$97,000,000 for fiscal year 2007.**

12 **[SEC. 3083. IMMIGRATION SECURITY INITIATIVE.**

13 **[(a) IN GENERAL.—Section 235A(b) of the**
14 **Immigration and Nationality Act (8 U.S.C.**
15 **1225(b)) is amended—**

16 **[(1) in the subsection heading, by in-**
17 **serting “AND IMMIGRATION SECURITY INI-**
18 **TIATIVE” after “PROGRAM”; and**

19 **[(2) by adding at the end the fol-**
20 **lowing:**

21 **“Beginning not later than December 31, 2006,**
22 **the number of airports selected for an assign-**
23 **ment under this subsection shall be at least**
24 **50.”.**

1 **[(b) AUTHORIZATION OF APPROPRIATIONS.—**

2 **There are authorized to be appropriated to**
3 **the Secretary of Homeland Security to carry**
4 **out the amendments made by subsection (a)—**

5 **[(1) \$25,000,000 for fiscal year 2005;**

6 **[(2) \$40,000,000 for fiscal year 2006;**

7 **and**

8 **[(3) \$40,000,000 for fiscal year 2007.**

9 **[SEC. 3084. RESPONSIBILITIES AND FUNCTIONS OF CON-**
10 **SULAR OFFICERS.**

11 **[(a) INCREASED NUMBER OF CONSULAR OFFI-**
12 **CERS.—The Secretary of State, in each of fiscal**
13 **years 2006 through 2009, may increase by 150**
14 **the number of positions for consular officers**
15 **above the number of such positions for which**
16 **funds were allotted for the preceding fiscal**
17 **year.**

18 **[(b) LIMITATION ON USE OF FOREIGN NA-**
19 **TIONALS FOR NONIMMIGRANT VISA SCREENING.—**
20 **Section 222(d) of the Immigration and Nation-**
21 **ality Act (8 U.S.C. 1202(d)) is amended by add-**
22 **ing at the end the following:**

23 **“All nonimmigrant visa applications shall be**
24 **reviewed and adjudicated by a consular offi-**
25 **cer.”.**

1 **[(c) TRAINING FOR CONSULAR OFFICERS IN**
2 **DETECTION OF FRAUDULENT DOCUMENTS.—Sec-**
3 **tion 305(a) of the Enhanced Border Security**
4 **and Visa Entry Reform Act of 2002 (8 U.S.C.**
5 **1734(a)) is amended by adding at the end the**
6 **following: “As part of the consular training**
7 **provided to such officers by the Secretary of**
8 **State, such officers shall also receive training**
9 **in detecting fraudulent documents and gen-**
10 **eral document forensics and shall be required**
11 **as part of such training to work with immi-**
12 **gration officers conducting inspections of ap-**
13 **plicants for admission into the United States**
14 **at ports of entry.”.**

15 **[(d) ASSIGNMENT OF ANTI-FRAUD SPECIAL-**
16 **ISTS.—**

17 **[(1) SURVEY REGARDING DOCUMENT**
18 **FRAUD.—The Secretary of State, in coordi-**
19 **nation with the Secretary of Homeland**
20 **Security, shall conduct a survey of each**
21 **diplomatic and consular post at which**
22 **visas are issued to assess the extent to**
23 **which fraudulent documents are pre-**
24 **sented by visa applicants to consular offi-**
25 **cers at such posts.**

1 **[(2) PLACEMENT OF SPECIALIST.—Not**
2 **later than July 31, 2005, the Secretary**
3 **shall, in coordination with the Secretary**
4 **of Homeland Security, identify 100 of**
5 **such posts that experience the greatest**
6 **frequency of presentation of fraudulent**
7 **documents by visa applicants. The Sec-**
8 **retary shall place in each such post at**
9 **least one full-time anti-fraud specialist**
10 **employed by the Department of State to**
11 **assist the consular officers at each such**
12 **post in the detection of such fraud.**

13 **[SEC. 3085. INCREASE IN PENALTIES FOR FRAUD AND RE-**
14 **LATED ACTIVITY.**

15 **[Section 1028 of title 18, United States**
16 **Code, relating to penalties for fraud and re-**
17 **lated activity in connection with identifica-**
18 **tion documents and information, is amend-**
19 **ed—**

20 **[(1) in subsection (b)(1)(A)(i), by strik-**
21 **ing “issued by or under the authority of**
22 **the United States” and inserting the fol-**
23 **lowing: “as described in subsection (d)”;**

24 **[(2) in subsection (b)(2), by striking**
25 **“three years” and inserting “six years”;**

1 **[(3) in subsection (b)(3), by striking**
2 **“20 years” and inserting “25 years”;**

3 **[(4) in subsection (b)(4), by striking**
4 **“25 years” and inserting “30 years”; and**

5 **[(5) in subsection (c)(1), by inserting**
6 **after “United States” the following: “Gov-**
7 **ernment, a State, political subdivision of**
8 **a State, a foreign government, political**
9 **subdivision of a foreign government, an**
10 **international governmental or an inter-**
11 **national quasi-governmental organiza-**
12 **tion,”.**

13 **[SEC. 3086. CRIMINAL PENALTY FOR FALSE CLAIM TO CITI-**
14 **ZENSHIP.**

15 **[Section 1015 of title 18, United States**
16 **Code, is amended—**

17 **[(1) by striking the dash at the end of**
18 **subsection (f) and inserting “; or”; and**

19 **[(2) by inserting after subsection (f)**
20 **the following:**

21 **[“(g) Whoever knowingly makes any false**
22 **statement or claim that he is a citizen of the**
23 **United States in order to enter into, or remain**
24 **in, the United States—”.**

1 [SEC. 3087. ANTITERRORISM ASSISTANCE TRAINING OF
2 THE DEPARTMENT OF STATE.

3 [(a) LIMITATION.—Notwithstanding any
4 other provision of law, the Secretary of State
5 shall ensure, subject to subsection (b), that
6 the Antiterrorism Assistance Training (ATA)
7 program of the Department of State (or any
8 successor or related program) under chapter
9 8 of part II of the Foreign Assistance Act of
10 1961 (22 U.S.C. 2349aa et seq.) (or other rel-
11 evant provisions of law) is carried out pri-
12 marily to provide training to host nation secu-
13 rity services for the specific purpose of ensur-
14 ing the physical security and safety of United
15 States Government facilities and personnel
16 abroad (as well as foreign dignitaries and
17 training related to the protection of such dig-
18 nitaries), including security detail training
19 and offenses related to passport or visa fraud.

20 [(b) EXCEPTION.—The limitation contained
21 in subsection (a) shall not apply, and the Sec-
22 retary of State may expand the ATA program
23 to include other types of antiterrorism assist-
24 ance training, if the Secretary first obtains
25 the approval of the Attorney General and pro-
26 vides written notification of such proposed

1 expansion to the appropriate congressional
2 committees.

3 [(c) DEFINITION.—In this section, the term
4 “appropriate congressional committees”
5 means—

6 [(1) the Committee on International
7 Relations and the Committee on the Judi-
8 ciary of the House of Representatives;
9 and

10 [(2) the Committee on Foreign Rela-
11 tions and the Committee on the Judiciary
12 of the Senate.

13 [SEC. 3088. INTERNATIONAL AGREEMENTS TO TRACK AND
14 CURTAIL TERRORIST TRAVEL THROUGH THE
15 USE OF FRAUDULENTLY OBTAINED DOCU-
16 MENTS.

17 [(a) FINDINGS.—Congress finds the fol-
18 lowing:

19 [(1) International terrorists travel
20 across international borders to raise
21 funds, recruit members, train for oper-
22 ations, escape capture, communicate, and
23 plan and carry out attacks.

24 [(2) The international terrorists who
25 planned and carried out the attack on

1 the World Trade Center on February 26,
2 1993, the attack on the embassies of the
3 United States in Kenya and Tanzania on
4 August 7, 1998, the attack on the USS
5 Cole on October 12, 2000, and the attack
6 on the World Trade Center and the Pen-
7 tagon on September 11, 2001, traveled
8 across international borders to plan and
9 carry out these attacks.

10 [(3) The international terrorists who
11 planned other attacks on the United
12 States, including the plot to bomb New
13 York City landmarks in 1993, the plot to
14 bomb the New York City subway in 1997,
15 and the millennium plot to bomb Los An-
16 geles International Airport on December
17 31, 1999, traveled across international
18 borders to plan and carry out these at-
19 tacks.

20 [(4) Many of the international terror-
21 ists who planned and carried out large-
22 scale attacks against foreign targets, in-
23 cluding the attack in Bali, Indonesia, on
24 October 11, 2002, and the attack in Ma-
25 drid, Spain, on March 11, 2004, traveled

1 across international borders to plan and
2 carry out these attacks.

3 [(5) Throughout the 1990s, inter-
4 national terrorists, including those in-
5 volved in the attack on the World Trade
6 Center on February 26, 1993, the plot to
7 bomb New York City landmarks in 1993,
8 and the millennium plot to bomb Los An-
9 geles International Airport on December
10 31, 1999, traveled on fraudulent passports
11 and often had more than one passport.

12 [(6) Two of the September 11, 2001,
13 hijackers were carrying passports that
14 had been manipulated in a fraudulent
15 manner and several other hijackers
16 whose passports did not survive the at-
17 tacks on the World Trade Center and
18 Pentagon were likely to have carried
19 passports that were similarly manipu-
20 lated.

21 [(7) The National Commission on Ter-
22 rorist Attacks upon the United States,
23 (commonly referred to as the 9/11 Com-
24 mission), stated that "Targeting travel is

1 at least as powerful a weapon against ter-
2 rorists as targeting their money.”.

3 **[(b) INTERNATIONAL AGREEMENTS TO TRACK**
4 **AND CURTAIL TERRORIST TRAVEL.—**

5 **[(1) INTERNATIONAL AGREEMENT ON**
6 **LOST, STOLEN, OR FALSIFIED DOCUMENTS.—**

7 **The President shall lead efforts to track**
8 **and curtail the travel of terrorists by sup-**
9 **porting the drafting, adoption, and imple-**
10 **mentation of international agreements,**
11 **and by supporting the expansion of exist-**
12 **ing international agreements, to track**
13 **and stop international travel by terror-**
14 **ists and other criminals through the use**
15 **of lost, stolen, or falsified documents to**
16 **augment existing United Nations and**
17 **other international anti-terrorism efforts.**

18 **[(2) CONTENTS OF INTERNATIONAL**
19 **AGREEMENT.—The President shall seek, in**
20 **the appropriate fora, the drafting, adop-**
21 **tion, and implementation of an effective**
22 **international agreement requiring—**

23 **[(A) the establishment of a system**
24 **to share information on lost, stolen,**
25 **and fraudulent passports and other**

1 **travel documents for the purposes of**
2 **preventing the undetected travel of**
3 **persons using such passports and**
4 **other travel documents that were ob-**
5 **tained improperly;**

6 **[(B) the establishment and imple-**
7 **mentation of a real-time verification**
8 **system of passports and other travel**
9 **documents with issuing authorities;**

10 **[(C) the assumption of an obliga-**
11 **tion by countries that are parties to**
12 **the agreement to share with officials**
13 **at ports of entry in any such country**
14 **information relating to lost, stolen,**
15 **and fraudulent passports and other**
16 **travel documents;**

17 **[(D) the assumption of an obliga-**
18 **tion by countries that are parties to**
19 **the agreement—**

20 **[(i) to criminalize—**

21 **[(I) the falsification or**
22 **counterfeiting of travel docu-**
23 **ments or breeder documents**
24 **for any purpose;**

1 **[(II) the use or attempted**
2 **use of false documents to ob-**
3 **tain a visa or cross a border**
4 **for any purpose;**

5 **[(III) the possession of**
6 **tools or implements used to**
7 **falsify or counterfeit such**
8 **documents;**

9 **[(IV) the trafficking in**
10 **false or stolen travel docu-**
11 **ments and breeder documents**
12 **for any purpose;**

13 **[(V) the facilitation of**
14 **travel by a terrorist; and**

15 **[(VI) attempts to commit,**
16 **including conspiracies to com-**
17 **mit, the crimes specified**
18 **above;**

19 **[(ii) to impose significant pen-**
20 **alties so as to appropriately pun-**
21 **ish violations and effectively**
22 **deter these crimes; and**

23 **[(iii) to limit the issuance of**
24 **citizenship papers, passports,**
25 **identification documents, and the**

1 like to persons whose identity is
2 proven to the issuing authority,
3 who have a bona fide entitlement
4 to or need for such documents,
5 and who are not issued such doc-
6 uments principally on account of
7 a disproportional payment made
8 by them or on their behalf to the
9 issuing authority;

10 [(E) the provision of technical as-
11 sistance to State Parties to help them
12 meet their obligations under the con-
13 vention;

14 [(F) the establishment and imple-
15 mentation of a system of self-assess-
16 ments and peer reviews to examine
17 the degree of compliance with the
18 convention; and

19 [(G) an agreement that would
20 permit immigration and border offi-
21 cials to confiscate a lost, stolen, or
22 falsified passport at ports of entry
23 and permit the traveler to return to
24 the sending country without being in
25 possession of the lost, stolen, or fal-

1 sified passport, and for the detention
2 and investigation of such traveler
3 upon the return of the traveler to the
4 sending country.

5 **[(3) INTERNATIONAL CIVIL AVIATION OR-**
6 **GANIZATION.—**The United States shall lead
7 efforts to track and curtail the travel of
8 terrorists by supporting efforts at the
9 International Civil Aviation Organization
10 to continue to strengthen the security
11 features of passports and other travel
12 documents.

13 **[(c) REPORT.—**

14 **[(1) IN GENERAL.—**Not later than one
15 year after the date of the enactment of
16 this Act, and at least annually thereafter,
17 the President shall submit to the appro-
18 priate congressional committees a report
19 on progress toward achieving the goals
20 described in subsection (b).

21 **[(2) TERMINATION.—**Paragraph (1)
22 shall cease to be effective when the Presi-
23 dent certifies to the Committee on Inter-
24 national Relations of the House of Rep-
25 resentatives and the Committee on For-

1 **eign Relations of the Senate that the**
2 **goals described in subsection (b) have**
3 **been fully achieved.**

4 **[SEC. 3089. INTERNATIONAL STANDARDS FOR TRANS-**
5 **LATION OF NAMES INTO THE ROMAN ALPHA-**
6 **BET FOR INTERNATIONAL TRAVEL DOCU-**
7 **MENTS AND NAME-BASED WATCHLIST SYS-**
8 **TEMS.**

9 **[(a) FINDINGS.—Congress finds that—**

10 **[(1) the current lack of a single con-**
11 **vention for translating Arabic names en-**
12 **abled some of the 19 hijackers of aircraft**
13 **used in the terrorist attacks against the**
14 **United States that occurred on Sep-**
15 **tember 11, 2001, to vary the spelling of**
16 **their names to defeat name-based ter-**
17 **rorist watchlist systems and to make**
18 **more difficult any potential efforts to lo-**
19 **cate them; and**

20 **[(2) although the development and**
21 **utilization of terrorist watchlist systems**
22 **using biometric identifiers will be help-**
23 **ful, the full development and utilization**
24 **of such systems will take several years,**

1 and name-based terrorist watchlist sys-
2 tems will always be useful.

3 **[(b) SENSE OF CONGRESS.—It is the sense of**
4 **Congress that the President should seek to**
5 **enter into an international agreement to mod-**
6 **ernize and improve standards for the trans-**
7 **lation of names into the Roman alphabet in**
8 **order to ensure one common spelling for such**
9 **names for international travel documents and**
10 **name-based watchlist systems.**

11 **[SEC. 3090. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

12 **[(a) FINDINGS.—Consistent with the report**
13 **of the National Commission on Terrorist At-**
14 **tacks Upon the United States, Congress finds**
15 **that completing a biometric entry and exit**
16 **data system as expeditiously as possible is an**
17 **essential investment in efforts to protect the**
18 **United States by preventing the entry of ter-**
19 **rorists.**

20 **[(b) PLAN AND REPORT.—**

21 **[(1) DEVELOPMENT OF PLAN.—The Sec-**
22 **retary of Homeland Security shall de-**
23 **velop a plan to accelerate the full imple-**
24 **mentation of an automated biometric**

1 entry and exit data system required by
2 applicable sections of—

3 [(A) the Illegal Immigration Re-
4 form and Immigrant Responsibility
5 Act of 1996 (Public Law 104–208);

6 [(B) the Immigration and Natu-
7 ralization Service Data Management
8 Improvement Act of 2000 (Public Law
9 106–205);

10 [(C) the Visa Waiver Permanent
11 Program Act (Public Law 106–396);

12 [(D) the Enhanced Border Secu-
13 rity and Visa Entry Reform Act of
14 2002 (Public Law 107–173); and

15 [(E) the Uniting and Strength-
16 ening America by Providing Appro-
17 priate Tools Required to Intercept
18 and Obstruct Terrorism Act of 2001
19 (Public Law 107–56).

20 [(2) REPORT.—Not later than 180 days
21 after the date of the enactment of this
22 Act, the Secretary shall submit a report
23 to Congress on the plan developed under
24 paragraph (1), which shall contain—

1 **[(A) a description of the current**
2 **functionality of the entry and exit**
3 **data system, including—**

4 **[(i) a listing of ports of entry**
5 **with biometric entry data systems**
6 **in use and whether such screen-**
7 **ing systems are located at pri-**
8 **mary or secondary inspection**
9 **areas;**

10 **[(ii) a listing of ports of entry**
11 **with biometric exit data systems**
12 **in use;**

13 **[(iii) a listing of databases**
14 **and data systems with which the**
15 **automated entry and exit data**
16 **system are interoperable;**

17 **[(iv) a description of—**

18 **[(I) identified deficiencies**
19 **concerning the accuracy or**
20 **integrity of the information**
21 **contained in the entry and**
22 **exit data system;**

23 **[(II) identified defi-**
24 **ciencies concerning tech-**
25 **nology associated with proc-**

1 **essing individuals through**
2 **the system; and**

3 **[(III) programs or policies**
4 **planned or implemented to**
5 **correct problems identified in**
6 **subclause (I) or (II); and**

7 **[(v) an assessment of the ef-**
8 **fectiveness of the entry and exit**
9 **data system in fulfilling its in-**
10 **tended purposes, including pre-**
11 **venting terrorists from entering**
12 **the United States;**

13 **[(B) a description of factors rel-**
14 **evant to the accelerated implementa-**
15 **tion of the biometric entry and exit**
16 **system, including—**

17 **[(i) the earliest date on which**
18 **the Secretary estimates that full**
19 **implementation of the biometric**
20 **entry and exit data system can be**
21 **completed;**

22 **[(ii) the actions the Secretary**
23 **will take to accelerate the full im-**
24 **plementation of the biometric**
25 **entry and exit data system at all**

1 ports of entry through which all
2 aliens must pass that are legally
3 required to do so; and

4 [(iii) the resources and au-
5 thorities required to enable the
6 Secretary to meet the implemen-
7 tation date described in clause (i);

8 [(C) a description of any improve-
9 ments needed in the information
10 technology employed for the entry
11 and exit data system; and

12 [(D) a description of plans for im-
13 proved or added interoperability with
14 any other databases or data systems.

15 [(c) INTEGRATION REQUIREMENT.—Not later
16 than 2 years after the date of the enactment
17 of this Act, the Secretary shall integrate the
18 biometric entry and exit data system with all
19 databases and data systems maintained by
20 the United States Citizenship and Immigra-
21 tion Services that process or contain informa-
22 tion on aliens.

23 [(d) MAINTAINING ACCURACY AND INTEGRITY
24 OF ENTRY AND EXIT DATA SYSTEM.—

1 **[(1) IN GENERAL.—The Secretary, in**
2 **consultation with other appropriate**
3 **agencies, shall establish rules, guidelines,**
4 **policies, and operating and auditing pro-**
5 **cedures for collecting, removing, and up-**
6 **dating data maintained in, and adding in-**
7 **formation to, the entry and exit data sys-**
8 **tem, and databases and data systems**
9 **linked to the entry and exit data system,**
10 **that ensure the accuracy and integrity of**
11 **the data.**

12 **[(2) REQUIREMENTS.—The rules, guide-**
13 **lines, policies, and procedures estab-**
14 **lished under paragraph (1) shall—**

15 **[(A) incorporate a simple and**
16 **timely method for—**

17 **[(i) correcting errors; and**

18 **[(ii) clarifying information**
19 **known to cause false hits or**
20 **misidentification errors; and**

21 **[(B) include procedures for indi-**
22 **viduals to seek corrections of data**
23 **contained in the data systems.**

24 **[(e) EXPEDITING REGISTERED TRAVELERS**
25 **ACROSS INTERNATIONAL BORDERS.—**

1 **[(1) FINDINGS.—Consistent with the**
2 **report of the National Commission on**
3 **Terrorist Attacks Upon the United States,**
4 **Congress finds that—**

5 **[(A) expediting the travel of pre-**
6 **viously screened and known travelers**
7 **across the borders of the United**
8 **States should be a high priority; and**

9 **[(B) the process of expediting**
10 **known travelers across the border**
11 **can permit inspectors to better focus**
12 **on identifying terrorists attempting**
13 **to enter the United States.**

14 **[(2) DEFINITION.—The term “reg-**
15 **istered traveler program” means any pro-**
16 **gram designed to expedite the travel of**
17 **previously screened and known travelers**
18 **across the borders of the United States.**

19 **[(3) REGISTERED TRAVEL PLAN.—**

20 **[(A) IN GENERAL.—As soon as is**
21 **practicable, the Secretary shall de-**
22 **velop and implement a plan to expe-**
23 **dite the processing of registered trav-**
24 **elers who enter and exit the United**

1 States through a single registered
2 traveler program.

3 [(B) INTEGRATION.—The registered
4 traveler program developed under
5 this paragraph shall be integrated
6 into the automated biometric entry
7 and exit data system described in this
8 section.

9 [(C) REVIEW AND EVALUATION.—In
10 developing the program under this
11 paragraph, the Secretary shall—

12 [(i) review existing programs
13 or pilot projects designed to expedite the travel of registered travelers across the borders of the
14 United States;
15
16

17 [(ii) evaluate the effectiveness
18 of the programs described in
19 clause (i), the costs associated
20 with such programs, and the costs
21 to travelers to join such programs;
22 and

23 [(iii) increase research and
24 development efforts to accelerate
25 the development and implementa-

1 **tion of a single registered traveler**
2 **program.**

3 **[(4) REPORT.—Not later than 1 year**
4 **after the date of the enactment of this**
5 **Act, the Secretary shall submit to the**
6 **Congress a report describing the Depart-**
7 **ment’s progress on the development and**
8 **implementation of the plan required by**
9 **this subsection.**

10 **[(f) AUTHORIZATION OF APPROPRIATIONS.—**
11 **There are authorized to be appropriated to**
12 **the Secretary, for each of the fiscal years 2005**
13 **through 2009, such sums as may be necessary**
14 **to carry out the provisions of this section.**

15 **[SEC. 3091. BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.**

16 **[(a) INTEGRATED BIOMETRIC ENTRY-EXIT**
17 **SCREENING SYSTEM.—With respect to the bio-**
18 **metric entry/exit data system referred to in**
19 **subsections (a) and (b), such systems shall—**

20 **[(1) Ensure that the system’s tracking**
21 **capabilities encompass data related to all**
22 **immigration benefits processing, includ-**
23 **ing visa applications with the Depart-**
24 **ment of State, immigration related filings**
25 **with the Department of Labor, cases**

1 pending before the Executive Office for
2 Immigration review, and matters pending
3 or under investigation before the Depart-
4 ment of Homeland Security.

5 [(2) Utilize a biometric based identity
6 number tied to an applicant's biometric
7 algorithm established under the entry/
8 exit system to track all immigration re-
9 lated matters concerning the applicant.

10 [(3) Provide that all information
11 about an applicant's immigration related
12 history, including entry/exit history, can
13 be queried through electronic means.
14 Database access and usage guidelines
15 shall include stringent safeguards to pre-
16 vent misuse of data.

17 [(4) Provide real time updates to the
18 database described in paragraph (3) in-
19 cluding pertinent data from all agencies
20 referenced in paragraph (1).

21 [(5) Limit access to the database de-
22 scribed in paragraph (4) (and any other
23 database used for tracking immigration
24 related processing and/or entry/exit) to
25 personnel explicitly authorized to do so,

1 and that any such access may be
2 ascertained by authorized persons by re-
3 view of the person's access authorization
4 code or number.

5 **[(6) Provide continuing education in**
6 **counterterrorism techniques, tools, and**
7 **methods for all Federal personnel em-**
8 **ployed in the evaluation of immigration**
9 **documents and immigration-related pol-**
10 **icy.**

11 **[(b) ENTRY-EXIT SYSTEM GOALS.—The De-**
12 **partment of Homeland Security shall con-**
13 **tinue to implement the system described in**
14 **subsections (a) and (b), in such a way that it**
15 **fulfills the following goals:**

16 **[(1) Serves as a vital counter-**
17 **terrorism tool.**

18 **[(2) Screens travelers efficiently and**
19 **in a welcoming manner.**

20 **[(3) Provides inspectors and related**
21 **personnel with adequate real-time infor-**
22 **mation.**

23 **[(4) Ensures flexibility of training**
24 **and security protocols to most effectively**
25 **comply with security mandates.**

1 **[(5) Integrates relevant databases**
2 **and plans for database modifications to**
3 **address volume increase and database**
4 **usage.**

5 **[(6) Improves database search capac-**
6 **ities by utilizing language algorithms to**
7 **detect alternate names.**

8 **[(c) DEDICATED SPECIALISTS AND FRONT**
9 **LINE PERSONNEL TRAINING.—In implementing**
10 **the provisions of subsections (a), (b), and (c),**
11 **the Department of Homeland Security and the**
12 **Department of State shall—**

13 **[(1) develop cross-training programs**
14 **that focus on the scope and procedures of**
15 **the entry/exit system;**

16 **[(2) provide extensive community**
17 **outreach and education on the entry/exit**
18 **system procedures;**

19 **[(3) provide clear and consistent eli-**
20 **gibility guidelines for applicants in low-**
21 **risk traveler programs; and**

22 **[(4) establish ongoing training mod-**
23 **ules on immigration law to improve adju-**
24 **dications at our ports of entry, con-**
25 **sulates, and embassies.**

1 **[(d) INFORMATION ACCURACY STANDARDS.—**

2 **[(1) Any information placed in the**
3 **entry/exit database shall be entered by**
4 **authorized officers in compliance with**
5 **established procedures, as set forth in**
6 **section 407 of this Act, that guarantee the**
7 **identification of the person making the**
8 **database entry.**

9 **[(2) The Secretary of Homeland Secu-**
10 **rity, the Secretary of State, and the Attor-**
11 **ney General, after consultation with di-**
12 **rectors of the relevant intelligence agen-**
13 **cies, shall standardize the information**
14 **and data collected from foreign nationals**
15 **as well as the procedures utilized to col-**
16 **lect such data to ensure that the informa-**
17 **tion is consistent and of value to officials**
18 **accessing that data across multiple agen-**
19 **cies.**

20 **[(e) ACCESSIBILITY.—The Secretary of**
21 **Homeland Security, the Secretary of State,**
22 **the Attorney General, and the head of any**
23 **other department or agency that possesses**
24 **authority to enter data related to the immi-**
25 **gration status of foreign nationals, including**

1 lawful permanent resident aliens, or where
2 such information could serve to impede law-
3 ful admission of United States citizens to the
4 United States, shall each establish guidelines
5 related to data entry procedures. Such guide-
6 lines shall—

7 [(1) strictly limit the agency per-
8 sonnel authorized to enter data into the
9 system;

10 [(2) identify classes of information to
11 be designated as temporary or permanent
12 entries, with corresponding expiration
13 dates for temporary entries; and

14 [(3) identify classes of prejudicial in-
15 formation requiring additional authority
16 of supervisory personnel prior to entry.

17 [(f) SYSTEM ADAPTABILITY.—

18 [(1) Each agency authorized to enter
19 data related to the immigration status of
20 any persons identified in subsection (b)
21 above shall develop and implement sys-
22 tem protocols to—

23 [(A) correct erroneous data en-
24 tries in a timely and effective man-
25 ner;

1 **[(B) clarify information known to**
2 **cause false hits or misidentification**
3 **errors; and**

4 **[(C) update all relevant informa-**
5 **tion that is dispositive to the adju-**
6 **dicatory or admission process.**

7 **[(2) The President or agency director**
8 **so designated by the President shall es-**
9 **tablish a clearinghouse bureau as part of**
10 **the Department of Homeland Security to**
11 **centralize and streamline the process**
12 **through which members of the public can**
13 **seek corrections to erroneous or inac-**
14 **curate information related to immigra-**
15 **tion status, or which otherwise impedes**
16 **lawful admission to the United States**
17 **contained in agency databases. Such**
18 **process shall include specific time sched-**
19 **ules for reviewing data correction re-**
20 **quests, rendering decisions on such re-**
21 **quests, and implementing appropriate**
22 **corrective action in a timely manner.**

23 **[(g) TRAINING.—Agency personnel author-**
24 **ized to enter data pursuant to subsection**

1 (b)(1) shall undergo extensive training in im-
2 migration law and procedure.

3 [(h) IMPLEMENTATION AUDIT.—The Sec-
4 retary of the Department of Homeland Secu-
5 rity shall issue a report to Congress within 6
6 months of enactment of this Act that details
7 activities undertaken to date to develop an
8 entry-exit system, areas in which the system
9 currently does not achieve the mandates set
10 forth by this section, and the funding, infra-
11 structure, technology and other factors need-
12 ed to complete the system, as well as a de-
13 tailed time frame in which the completion of
14 the system will be achieved.

15 [(i) REPORTS.—

16 [(1) The Secretaries of the Depart-
17 ments of State and Homeland Security
18 jointly shall report biannually to Con-
19 gress on: Current infrastructure and
20 staffing at each port of entry and each
21 consular post, numbers of immigrant and
22 nonimmigrant visas issued, specify the
23 numbers of individuals subject to expe-
24 dited removal at the ports of entry as
25 well as within 100 miles of the United

1 States border, the plan for enhanced
2 database review at entry, the number of
3 suspected terrorists and criminals inter-
4 cepted utilizing the entry/exit system and
5 the moneys spent in the preceding fiscal
6 year to achieve the mandates of this sec-
7 tion, areas in which they failed to
8 achieve these mandates, and the steps
9 they are taking to address these defi-
10 ciencies. For ports of entry, similar infor-
11 mation shall be provided including the
12 number of I-94s issued, immigrant visa
13 admissions made, and nonimmigrant ad-
14 missions.

15 [(2) No later than 120 days after en-
16 actment of this Act, the Secretary of
17 Homeland Security and the Secretary of
18 State, after consultation with the Direc-
19 tor of the National Institute of Standards
20 and Technology and the Commission on
21 Interoperable Data Sharing, shall issue a
22 report addressing the following areas:

23 [(A) The status of agency compli-
24 ance with the mandates set forth in
25 section 202 (“Interoperable Law En-

1 **forcement and Intelligence Data Sys-**
2 **tem with Name-Matching Capacity**
3 **and Training”) of the Enhanced Bor-**
4 **der Security and Visa Entry Reform**
5 **Act (Public Law 107–173).**

6 **[(B) The status of agency compli-**
7 **ance with section 201(c)(3) (“Protec-**
8 **tions Regarding Information and**
9 **Uses Thereof”) of the Enhanced Bor-**
10 **der Security and Visa Entry Reform**
11 **Act (Public Law 107–173).**

12 **[(3) No later than 1 year after enact-**
13 **ment of this Act, the Secretary of Home-**
14 **land Security, the Secretary of State, the**
15 **Attorney General, and the head of any**
16 **other department or agency bound by the**
17 **mandates in this Act, shall issue both in-**
18 **dividual status reports and a joint status**
19 **report detailing compliance with each**
20 **mandate contained in this section.**

21 **[(j) AUTHORIZATION OF APPROPRIATIONS.—**
22 **There are authorized to be appropriated such**
23 **sums as may be necessary to carry out this**
24 **section.**

1 [SEC. 3092. ENHANCED RESPONSIBILITIES OF THE COORDI-
2 NATOR FOR counterterrorism.

3 [(a) DECLARATION OF UNITED STATES POL-
4 ICY.—Congress declares that it shall be the
5 policy of the United States to—

6 [(1) make combating terrorist travel
7 and those who assist them a priority for
8 the United States counterterrorism pol-
9 icy; and

10 [(2) ensure that the information relat-
11 ing to individuals who help facilitate ter-
12 rorist travel by creating false passports,
13 visas, documents used to obtain such
14 travel documents, and other documents
15 are fully shared within the United States
16 Government and, to the extent possible,
17 with and from foreign governments, in
18 order to initiate United States and for-
19 eign prosecutions of such individuals.

20 [(b) AMENDMENT.—Section 1(e)(2) of the
21 State Department Basic Authorities Act of
22 1956 (22 U.S.C. 2651a(e)(2)) is amended by
23 adding at the end the following:

24 [“(C) ADDITIONAL DUTIES RELATING
25 TO TERRORIST TRAVEL.—In addition to
26 the principal duties of the Coordi-

1 nator described in subparagraph (B),
2 the Coordinator shall analyze meth-
3 ods used by terrorists to travel inter-
4 nationally, develop policies with re-
5 spect to curtailing terrorist travel,
6 and coordinate such policies with the
7 appropriate bureaus and other enti-
8 ties of the Department of State, other
9 United States Government agencies,
10 the Human Trafficking and Smug-
11 gling Center, and foreign govern-
12 ments.”.

13 [SEC. 3093. ESTABLISHMENT OF OFFICE OF VISA AND PASS-
14 PORT SECURITY IN THE DEPARTMENT OF
15 STATE.

16 **[(a) ESTABLISHMENT.—**There is established
17 within the Bureau of Diplomatic Security of
18 the Department of State an Office of Visa and
19 Passport Security (in this section referred to
20 as the “Office”).

21 **[(b) HEAD OF OFFICE.—**

22 **[(1) IN GENERAL.—**Notwithstanding
23 any other provision of law, the head of
24 the Office shall be an individual who
25 shall have the rank and status of Deputy

1 **Assistant Secretary of State for Diplo-**
2 **matic Security (in this section referred to**
3 **as the “Deputy Assistant Secretary”).**

4 **[(2) RECRUITMENT.—The Under Sec-**
5 **retary of State for Management shall**
6 **chose the Deputy Assistant Secretary**
7 **from among individuals who are Diplo-**
8 **matic Security Agents.**

9 **[(3) QUALIFICATIONS.—The Diplomatic**
10 **Security Agent chosen to serve as the**
11 **Deputy Assistant Secretary shall have ex-**
12 **pertise and experience in investigating**
13 **and prosecuting visa and passport fraud.**

14 **[(c) DUTIES.—**

15 **[(1) PREPARATION OF STRATEGIC**
16 **PLAN.—**

17 **[(A) IN GENERAL.—The Deputy As-**
18 **sistant Secretary, in coordination**
19 **with the appropriate officials of the**
20 **Department of Homeland Security,**
21 **shall ensure the preparation of a stra-**
22 **tegic plan to target and disrupt indi-**
23 **viduals and organizations at home**
24 **and in foreign countries that are in-**
25 **volved in the fraudulent production,**

1 **distribution, use, or other similar ac-**
2 **tivity—**

3 **[(i) of a United States visa or**
4 **United States passport;**

5 **[(ii) of documents intended to**
6 **help fraudulently procure a**
7 **United States visa or United**
8 **States passport, or other docu-**
9 **ments intended to gain unlawful**
10 **entry into the United States; or**

11 **[(iii) of passports and visas**
12 **issued by foreign countries in-**
13 **tended to gain unlawful entry**
14 **into the United States.**

15 **[(B) EMPHASIS.—Such plan shall—**

16 **[(i) focus particular emphasis**
17 **on individuals and organizations**
18 **that may have links to domestic**
19 **terrorist organizations or foreign**
20 **terrorist organizations (as such**
21 **term is defined in Section 219 of**
22 **the Immigration and Nationality**
23 **Act (8 U.S.C. 1189));**

24 **[(ii) require the development**
25 **of a strategic training course**

1 under the Antiterrorism Assist-
2 ance Training (ATA) program of
3 the Department of State (or any
4 successor or related program)
5 under chapter 8 of part II of the
6 Foreign Assistance Act of 1961 (22
7 U.S.C. 2349aa et seq.) (or other
8 relevant provisions of law) to
9 train participants in the identi-
10 fication of fraudulent documents
11 and the forensic detection of such
12 documents which may be used to
13 obtain unlawful entry into the
14 United States; and

15 [(iii) determine the benefits
16 and costs of providing technical
17 assistance to foreign governments
18 to ensure the security of pass-
19 ports, visas, and related docu-
20 ments and to investigate, arrest,
21 and prosecute individuals who fa-
22 cilitate travel by the creation of
23 false passports and visas, docu-
24 ments to obtain such passports

1 and visas, and other types of trav-
2 el documents.

3 **[(2) DUTIES OF OFFICE.—The Office**
4 **shall have the following duties:**

5 **[(A) ANALYSIS OF METHODS.—Ana-**
6 **lyze methods used by terrorists to**
7 **travel internationally, particularly**
8 **the use of false or altered travel docu-**
9 **ments to illegally enter foreign coun-**
10 **tries and the United States, and ad-**
11 **vice the Bureau of Consular Affairs**
12 **on changes to the visa issuance proc-**
13 **ess that could combat such methods,**
14 **including the introduction of new**
15 **technologies into such process.**

16 **[(B) IDENTIFICATION OF INDIVID-**
17 **UALS AND DOCUMENTS.—Identify, in co-**
18 **operation with the Human Traf-**
19 **ficking and Smuggling Center, indi-**
20 **viduals who facilitate travel by the**
21 **creation of false passports and visas,**
22 **documents used to obtain such pass-**
23 **ports and visas, and other types of**
24 **travel documents, and ensure that**
25 **the appropriate agency is notified for**

1 further investigation and prosecution
2 or, in the case of such individuals
3 abroad for which no further inves-
4 tigation or prosecution is initiated,
5 ensure that all appropriate informa-
6 tion is shared with foreign govern-
7 ments in order to facilitate investiga-
8 tion, arrest, and prosecution of such
9 individuals.

10 [(C) IDENTIFICATION OF FOREIGN
11 COUNTRIES NEEDING ASSISTANCE.—Iden-
12 tify foreign countries that need tech-
13 nical assistance, such as law reform,
14 administrative reform, prosecutorial
15 training, or assistance to police and
16 other investigative services, to ensure
17 passport, visa, and related document
18 security and to investigate, arrest,
19 and prosecute individuals who facili-
20 tate travel by the creation of false
21 passports and visas, documents used
22 to obtain such passports and visas,
23 and other types of travel documents.

24 [(D) INSPECTION OF APPLICA-
25 TIONS.—Randomly inspect visa and

1 passport applications for accuracy,
2 efficiency, and fraud, especially at
3 high terrorist threat posts, in order to
4 prevent a recurrence of the issuance
5 of visas to those who submit incom-
6 plete, fraudulent, or otherwise irreg-
7 ular or incomplete applications.

8 [(3) REPORT.—Not later than 90 days
9 after the date of the enactment of this
10 Act, the Deputy Assistant Secretary shall
11 submit to Congress a report containing—

12 [(A) a description of the strategic
13 plan prepared under paragraph (1);
14 and

15 [(B) an evaluation of the feasi-
16 bility of establishing civil service po-
17 sitions in field offices of the Bureau
18 of Diplomatic Security to investigate
19 visa and passport fraud, including an
20 evaluation of whether to allow diplo-
21 matic security agents to convert to
22 civil service officers to fill such posi-
23 tions.

1 **[Subtitle D—Terrorist Travel**

2 **[SEC. 3101. INFORMATION SHARING AND COORDINATION.**

3 **[The Secretary of Homeland Security**
4 **shall establish a mechanism to—**

5 **[(1) ensure the coordination and dis-**
6 **semination of terrorist travel intelligence**
7 **and operational information among the**
8 **appropriate agencies within the Depart-**
9 **ment of Homeland Security, including the**
10 **Bureau of Customs and Border Protec-**
11 **tion, the Bureau of Immigration and Cus-**
12 **toms Enforcement, the Bureau of Citizen-**
13 **ship and Immigration Services, the**
14 **Transportation Security Administration,**
15 **the Coast Guard, and other agencies as**
16 **directed by the Secretary; and**

17 **[(2) ensure the sharing of terrorist**
18 **travel intelligence and operational infor-**
19 **mation with the Department of State, the**
20 **National counterterrorism Center, and**
21 **other appropriate Federal agencies.**

22 **[SEC. 3102. TERRORIST TRAVEL PROGRAM.**

23 **[The Secretary of Homeland Security**
24 **shall establish a program to—**

1 **[(1) analyze and utilize information**
2 **and intelligence regarding terrorist trav-**
3 **el tactics, patterns, trends, and practices;**
4 **and**

5 **[(2) disseminate that information to**
6 **all front-line Department of Homeland**
7 **Security personnel who are at ports of**
8 **entry or between ports of entry, to immi-**
9 **gration benefits offices, and, in coordina-**
10 **tion with the Secretary of State, to appro-**
11 **priate individuals at United States em-**
12 **bassies and consulates.**

13 **[SEC. 3103. TRAINING PROGRAM.**

14 **[(a) REVIEW, EVALUATION, AND REVISION OF**
15 **EXISTING TRAINING PROGRAMS.—The Secretary**
16 **of Homeland Security shall—**

17 **[(1) review and evaluate the training**
18 **currently provided to Department of**
19 **Homeland Security personnel and, in**
20 **consultation with the Secretary of State,**
21 **relevant Department of State personnel**
22 **with respect to travel and identity docu-**
23 **ments, and techniques, patterns, and**
24 **trends associated with terrorist travel;**
25 **and**

1 **[(2) develop and implement a revised**
2 **training program for border, immigra-**
3 **tion, and consular officials in order to**
4 **teach such officials how to effectively de-**
5 **tect, intercept, and disrupt terrorist trav-**
6 **el.**

7 **[(b) REQUIRED TOPICS OF REVISED PRO-**
8 **GRAMS.—The training program developed**
9 **under subsection (a)(2) shall include training**
10 **in the following areas:**

11 **[(1) Methods for identifying fraudu-**
12 **lent and genuine travel documents.**

13 **[(2) Methods for detecting terrorist**
14 **indicators on travel documents and other**
15 **relevant identity documents.**

16 **[(3) Recognizing travel patterns, tac-**
17 **tics, and behaviors exhibited by terror-**
18 **ists.**

19 **[(4) Effectively utilizing information**
20 **contained in databases and data systems**
21 **available to the Department of Homeland**
22 **Security.**

23 **[(5) Other topics determined to be ap-**
24 **propriate by the Secretary of Homeland**
25 **Security in consultation with the Sec-**

3 [SEC. 3104. TECHNOLOGY ACQUISITION AND DISSEMINA-
4 TION PLAN.

[(b) INTEROPERABILITY REQUIREMENT.—To the extent possible, technologies to be acquired and deployed under the plan shall be compatible with current systems used by the Department of Homeland Security to detect and identify fraudulent documents and genuine documents.]

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1 nologies to screen passports submitted for
2 identification purposes to a United States
3 consular, border, or immigration official.

4 **[Subtitle E—Maritime Security**
5 **Requirements**

6 **[SEC. 3111. DEADLINES FOR IMPLEMENTATION OF MARI-**
7 **TIME SECURITY REQUIREMENTS.**

8 **[(a) NATIONAL MARITIME TRANSPORTATION**
9 **SECURITY PLAN.—Section 70103(a) of the 46,**
10 **United States Code, is amended by striking**
11 **“The Secretary” and inserting “Not later than**
12 **December 31, 2004, the Secretary”.**

13 **[(b) FACILITY AND VESSEL VULNERABILITY**
14 **ASSESSMENTS.—Section 70102(b)(1) of the 46,**
15 **United States Code, is amended by striking “,**
16 **the Secretary” and inserting “and by not later**
17 **than December 31, 2004, the Secretary”.**

18 **[(c) TRANSPORTATION SECURITY CARD REG-**
19 **ULATIONS.—Section 70105(a) of the 46, United**
20 **States Code, is amended by striking “The Sec-**
21 **retary” and inserting “Not later than Decem-**
22 **ber 31, 2004, the Secretary”.**

1 **[TITLE IV—INTERNATIONAL CO-**
2 **OPERATION AND COORDINA-**
3 **TION**

4 **[Subtitle A—Attack Terrorists and**
5 **Their Organizations**

6 **[CHAPTER 1—PROVISIONS RELATING TO**
7 **TERRORIST SANCTUARIES**

8 **[SEC. 4001. UNITED STATES POLICY ON TERRORIST SANC-**
9 **TUARIES.**

10 **[It is the sense of Congress that it should**
11 **be the policy of the United States—**

12 **[(1) to identify and prioritize foreign**
13 **countries that are or that could be used**
14 **as terrorist sanctuaries;**

15 **[(2) to assess current United States**
16 **resources being provided to such foreign**
17 **countries;**

18 **[(3) to develop and implement a co-**
19 **ordinated strategy to prevent terrorists**
20 **from using such foreign countries as**
21 **sanctuaries; and**

22 **[(4) to work in bilateral and multilat-**
23 **eral fora to prevent foreign countries**
24 **from being used as terrorist sanctuaries.**

1 **[SEC. 4002. REPORTS ON TERRORIST SANCTUARIES.**

2 **[(a) INITIAL REPORT.—**

3 **[(1) IN GENERAL.—Not later than 90**
4 **days after the date of the enactment of**
5 **this Act, the President shall transmit to**
6 **Congress a report that describes a strat-**
7 **egy for addressing and, where possible,**
8 **eliminating terrorist sanctuaries.**

9 **[(2) CONTENT.—The report required**
10 **under this subsection shall include the**
11 **following:**

12 **[(A) A list that prioritizes each**
13 **actual and potential terrorist sanc-**
14 **tuary and a description of activities**
15 **in the actual and potential sanc-**
16 **tuaries.**

17 **[(B) An outline of strategies for**
18 **preventing the use of, disrupting, or**
19 **ending the use of such sanctuaries.**

20 **[(C) A detailed description of ef-**
21 **forts, including an assessment of suc-**
22 **cesses and setbacks, by the United**
23 **States to work with other countries**
24 **in bilateral and multilateral fora to**
25 **address or eliminate each actual or**
26 **potential terrorist sanctuary and dis-**

1 rupt or eliminate the security pro-
2 vided to terrorists by each such sanc-
3 tuary.

4 [(D) A description of long-term
5 goals and actions designed to reduce
6 the conditions that allow the forma-
7 tion of terrorist sanctuaries.

8 **[(b) SUBSEQUENT REPORTS.—**

9 **[(1) REQUIREMENT OF REPORTS.—Sec-**
10 **tion 140(a)(1) of the Foreign Relations**
11 **Authorization Act, Fiscal Years 1988 and**
12 **1989 (22 U.S.C. 2656f(a)(1)) is amended—**

13 **[(A) by striking “(1)” and insert-**
14 **ing “(1)(A)”;**

15 **[(B) by redesignating subpara-**
16 **graphs (A) through (C) as clauses (i)**
17 **through (iii), respectively;**

18 **[(C) in subparagraph (A)(iii) (as**
19 **redesignated), by adding “and” at the**
20 **end; and**

21 **[(D) by adding at the end the fol-**
22 **lowing:**

23 **[“(B) detailed assessments with re-**
24 **spect to each foreign country whose ter-**
25 **ritory is being used or could potentially**

1 be used as a sanctuary for terrorists or
2 terrorist organizations;”.

3 **[(2) PROVISIONS TO BE INCLUDED IN RE-**
4 **PORT.—Section 140(b) of such Act (22**
5 **U.S.C. 2656f(b)) is amended—**

6 **[(A) in paragraph (1)—**

7 **[(i) in the matter preceding**
8 **subparagraph (A), by striking**
9 **“subsection (a)(1)” and inserting**
10 **“subsection (a)(1)(A)”;** and

11 **[(ii) by striking “and” at the**
12 **end;**

13 **[(B) by redesignating paragraph**
14 **(2) as paragraph (3);**

15 **[(C) by inserting after paragraph**
16 **(1) the following:**

17 **[“(2) with respect to subsection**
18 **(a)(1)(B)—**

19 **[“(A) the extent of knowledge by**
20 **the government of the country with**
21 **respect to terrorist activities in the**
22 **territory of the country; and**

23 **[“(B) the actions by the country—**

1 **[(i) to eliminate each ter-**
2 **rorist sanctuary in the territory**
3 **of the country;**

4 **[(ii) to cooperate with United**
5 **States antiterrorism efforts; and**

6 **[(iii) to prevent the prolifera-**
7 **tion of and trafficking in weapons**
8 **of mass destruction in and**
9 **through the territory of the coun-**
10 **try;”;**

11 **[(D) by striking the period at the**
12 **end of paragraph (3) (as redesign-**
13 **ated) and inserting a semicolon; and**

14 **[(E) by inserting after paragraph**
15 **(3) (as redesignated) the following:**

16 **[(4) a strategy for addressing and,**
17 **where possible, eliminating terrorist**
18 **sanctuaries that shall include—**

19 **[(A) a description of actual and**
20 **potential terrorist sanctuaries, to-**
21 **gether with an assessment of the pri-**
22 **orities of addressing and eliminating**
23 **such sanctuaries;**

24 **[(B) an outline of strategies for**
25 **disrupting or eliminating the security**

1 **provided to terrorists by such sanc-**
2 **tuaries;**

3 **[(C) a description of efforts by**
4 **the United States to work with other**
5 **countries in bilateral and multilateral**
6 **fora to address or eliminate actual or**
7 **potential terrorist sanctuaries and**
8 **disrupt or eliminate the security pro-**
9 **vided to terrorists by such sanc-**
10 **tuaries; and**

11 **[(D) a description of long-term**
12 **goals and actions designed to reduce**
13 **the conditions that allow the forma-**
14 **tion of terrorist sanctuaries;**

15 **[(5) an update of the information**
16 **contained in the report required to be**
17 **transmitted to Congress pursuant to sec-**
18 **tion 4002(a)(2) of the 9/11 Recommenda-**
19 **tions Implementation Act;**

20 **[(6) to the extent practicable, com-**
21 **plete statistical information on the num-**
22 **ber of individuals, including United**
23 **States citizens and dual nationals, killed,**
24 **injured, or kidnapped by each terrorist**

1 group during the preceding calendar
2 year; and

3 [(7) an analysis, as appropriate, re-
4 lating to trends in international ter-
5 rorism, including changes in technology
6 used, methods and targets of attacks, de-
7 mographic information on terrorists, and
8 other appropriate information.”.

9 [(3) DEFINITIONS.—Section 140(d) of
10 such Act (22 U.S.C. 2656f(d)) is amended—

11 [(A) in paragraph (2), by striking
12 “and” at the end;

13 [(B) in paragraph (3), by striking
14 the period at the end and inserting a
15 semicolon; and

16 [(C) by adding at the end the fol-
17 lowing:

18 [(4) the term ‘territory’ and ‘terri-
19 tory of the country’ means the land, wa-
20 ters, and airspace of the country; and

21 [(5) the term ‘terrorist sanctuary’ or
22 ‘sanctuary’ means an area in the territory
23 of a country that is used by a terrorist
24 group with the express or implied con-
25 sent of the government of the country—

1 **[(A) to carry out terrorist activi-**
2 **ties, including training, fundraising,**
3 **financing, recruitment, and education**
4 **activities; or**

5 **[(B) to provide transit through**
6 **the country.”.**

7 **[(4) EFFECTIVE DATE.—The amend-**
8 **ments made by paragraphs (1), (2), and**
9 **(3) apply with respect to the report re-**
10 **quired to be transmitted under section**
11 **140 of the Foreign Relations Authoriza-**
12 **tion Act, Fiscal Years 1988 and 1989, by**
13 **April 30, 2006, and by April 30 of each**
14 **subsequent year.**

15 **[SEC. 4003. AMENDMENTS TO EXISTING LAW TO INCLUDE**
16 **TERRORIST SANCTUARIES.**

17 **[(a) AMENDMENTS.—Section 6(j) of the Ex-**
18 **port Administration Act of 1979 (50 U.S.C.**
19 **App. 2405(j)) is amended—**

20 **[(1) in paragraph (1)—**

21 **[(A) by redesignating subpara-**
22 **graph (B) as subparagraph (C); and**

23 **[(B) by inserting after subpara-**
24 **graph (A) the following:**

1 **[(B) Any part of the territory of the**
2 **country is being used as a sanctuary for**
3 **terrorists or terrorist organizations.”;**

4 **[(2) in paragraph (3), by striking**
5 **“paragraph (1)(A)” and inserting “sub-**
6 **paragraph (A) or (B) of paragraph (1)”;**

7 **[(3) by redesignating paragraph (5) as**
8 **paragraph (6);**

9 **[(4) by inserting after paragraph (4)**
10 **the following:**

11 **[(5) A determination made by the Sec-**
12 **retary of State under paragraph (1)(B) may**
13 **not be rescinded unless the President submits**
14 **to the Speaker of the House of Representa-**
15 **tives and the chairman of the Committee on**
16 **Banking, Housing, and Urban Affairs and the**
17 **chairman of the Committee on Foreign Rela-**
18 **tions of the Senate before the proposed rescis-**
19 **sion would take effect a report certifying that**
20 **the government of the country concerned —**

21 **[(A) is taking concrete, verifiable**
22 **steps to eliminate each terrorist sanc-**
23 **tuary in the territory of the country;**

24 **[(B) is cooperating with United**
25 **States antiterrorism efforts; and**

1 **[(C) is taking all appropriate actions**
2 **to prevent the proliferation of and traf-**
3 **ficking in weapons of mass destruction in**
4 **and through the territory of the coun-**
5 **try.”; and**

6 **[(5) by inserting after paragraph (6)**
7 **(as redesignated) the following:**

8 **[(7) In this subsection—**

9 **[(A) the term ‘territory of the coun-**
10 **try’ means the land, waters, and airspace**
11 **of the country; and**

12 **[(B) the term ‘terrorist sanctuary’ or**
13 **‘sanctuary’ means an area in the territory**
14 **of a country that is used by a terrorist**
15 **group with the express or implied con-**
16 **sent of the government of the country—**

17 **[(i) to carry out terrorist activi-**
18 **ties, including training, fundraising,**
19 **financing, recruitment, and education**
20 **activities; or**

21 **[(ii) to provide transit through**
22 **the country.”.**

23 **[(b) IMPLEMENTATION.—The President**
24 **shall implement the amendments made by**
25 **subsection (a) by exercising the authorities**

1 the President has under the International
2 Emergency Economic Powers Act (50 U.S.C.
3 1701 et seq.).

4 **[CHAPTER 2—OTHER PROVISIONS]**

5 **[SEC. 4011. APPOINTMENTS TO FILL VACANCIES IN ARMS**
6 **CONTROL AND NONPROLIFERATION ADVI-**
7 **SORY BOARD.]**

8 **[(a) REQUIREMENT.—Not later than Decem-**
9 **ber 31, 2004, the Secretary of State shall ap-**
10 **point individuals to the Arms Control and**
11 **Nonproliferation Advisory Board to fill all va-**
12 **cancies in the membership of the Board that**
13 **exist on the date of the enactment of this Act.]**

14 **[(b) CONSULTATION.—Appointments to the**
15 **Board under subsection (a) shall be made in**
16 **consultation with the Committee on Inter-**
17 **national Relations of the House of Represent-**
18 **atives and the Committee on Foreign Rela-**
19 **tions of the Senate.]**

20 **[SEC. 4012. REVIEW OF UNITED STATES POLICY ON PRO-**
21 **LIFERATION OF WEAPONS OF MASS DE-**
22 **STRUCTION AND CONTROL OF STRATEGIC**
23 **WEAPONS.]**

24 **[(a) REVIEW.—**

1 **[(1) IN GENERAL.—The Undersecretary**
2 **of State for Arms Control and Inter-**
3 **national Security shall instruct the Arms**
4 **Control and Nonproliferation Advisory**
5 **Board (in this section referred to as the**
6 **“Advisory Board”) to carry out a review**
7 **of existing policies of the United States**
8 **relating to the proliferation of weapons**
9 **of mass destruction and the control of**
10 **strategic weapons.**

11 **[(2) COMPONENTS.—The review re-**
12 **quired under this subsection shall con-**
13 **tain at a minimum the following:**

14 **[(A) An identification of all major**
15 **deficiencies in existing United States**
16 **policies relating to the proliferation**
17 **of weapons of mass destruction and**
18 **the control of strategic weapons.**

19 **[(B) Proposals that contain a**
20 **range of options that if implemented**
21 **would adequately address any signifi-**
22 **cant threat deriving from the defi-**
23 **ciencies in existing United States**
24 **policies described in subparagraph**
25 **(A).**

1 **[(b) REPORTS.—**

2 **[(1) INTERIM REPORT.—Not later than**
3 **June 15, 2005, the Advisory Board shall**
4 **prepare and submit to the Undersecre-**
5 **tary of State for Arms Control and Inter-**
6 **national Security an interim report that**
7 **contains the initial results of the review**
8 **carried out pursuant to subsection (a).**

9 **[(2) FINAL REPORT.—Not later than**
10 **December 1, 2005, the Advisory Board**
11 **shall prepare and submit to the Under-**
12 **secretary of State for Arms Control and**
13 **International Security, and to the Com-**
14 **mittee on International Relations of the**
15 **House of Representatives and the Com-**
16 **mittee on Foreign Relations of the Sen-**
17 **ate, a final report that contains the com-**
18 **prehensive results of the review carried**
19 **out pursuant to subsection (a).**

20 **[(c) EXPERTS AND CONSULTANTS.—In car-**
21 **rying out this section, the Advisory Board**
22 **may procure temporary and intermittent**
23 **services of experts and consultants, including**
24 **experts and consultants from nongovern-**

1 mental organizations, under section 3109(b) of
2 title 5, United States Code.

3 [(d) FUNDING AND OTHER RESOURCES.—The
4 Secretary of State shall provide to the Advi-
5 sory Board an appropriate amount of funding
6 and other resources to enable the Advisory
7 Board to carry out this section.

8 [SEC. 4013. INTERNATIONAL AGREEMENTS TO INTERDICT
9 ACTS OF INTERNATIONAL TERRORISM.

10 [Section 1(e)(2) of the State Department
11 Basic Authorities Act of 1956 (22 U.S.C.
12 2651a(e)(2)), as amended by section 3091(b), is
13 further amended by adding at the end the fol-
14 lowing:

15 [“(D) ADDITIONAL DUTIES RELATING
16 TO INTERNATIONAL AGREEMENTS TO
17 INTERDICT ACTS OF INTERNATIONAL TER-
18 RORISM.—

19 [“(i) IN GENERAL.—In addition
20 to the principal duties of the Co-
21 ordinator described in subpara-
22 graph (B), the Coordinator, in
23 consultation with relevant United
24 States Government agencies, shall
25 seek to negotiate on a bilateral

1 **basis international agreements**
2 **under which parties to an agree-**
3 **ment work in partnership to ad-**
4 **dress and interdict acts of inter-**
5 **national terrorism.**

6 **[(ii) TERMS OF INTERNATIONAL**
7 **AGREEMENT.—It is the sense of**
8 **Congress that—**

9 **[(I) each party to an**
10 **international agreement re-**
11 **ferred to in clause (i)—**

12 **[(aa) should be in full**
13 **compliance with United**
14 **Nations Security Council**
15 **Resolution 1373 (Sep-**
16 **tember 28, 2001), other ap-**
17 **propriate international**
18 **agreements relating to**
19 **antiterrorism measures,**
20 **and such other appro-**
21 **priate criteria relating to**
22 **antiterrorism measures;**

23 **[(bb) should sign and**
24 **adhere to a ‘counter-**
25 **terrorism Pledge’ and a**

1 list of ‘Interdiction Prin-
2 ciples’, to be determined
3 by the parties to the
4 agreement;

5 [“(cc) should identify
6 assets and agree to multi-
7 lateral efforts that maxi-
8 mizes the country’s
9 strengths and resources to
10 address and interdict acts
11 of international terrorism
12 or the financing of such
13 acts;

14 [“(dd) should agree to
15 joint training exercises
16 among the other parties to
17 the agreement; and

18 [“(ee) should agree to
19 the negotiation and imple-
20 mentation of other rel-
21 evant international agree-
22 ments and consensus-
23 based international stand-
24 ards; and

1 **[(“II) an international**
2 **agreement referred to in**
3 **clause (i) should contain pro-**
4 **visions that require the par-**
5 **ties to the agreement—**

6 **[(“aa) to identify re-**
7 **gions throughout the**
8 **world that are emerging**
9 **terrorist threats;**

10 **[(“bb) to establish ter-**
11 **rorism interdiction cen-**
12 **ters in such regions and**
13 **other regions, as appro-**
14 **priate;**

15 **[(“cc) to deploy ter-**
16 **rorism prevention teams**
17 **to such regions, including**
18 **United States-led teams;**
19 **and**

20 **[(“dd) to integrate in-**
21 **telligence, military, and**
22 **law enforcement per-**
23 **sonnel from countries that**
24 **are parties to the agree-**
25 **ment in order to work di-**

1 rectly with the regional
2 centers described in item
3 (bb) and regional teams
4 described in item (cc).”.

5 [SEC. 4014. EFFECTIVE COALITION APPROACH TOWARD DE-
6 TENTION AND HUMANE TREATMENT OF CAP-
7 TURED TERRORISTS.

8 **[[It is the sense of Congress that the Presi-**
9 **dent should pursue by all appropriate diplo-**
10 **matic means with countries that are partici-**
11 **pating in the Coalition to fight terrorism the**
12 **development of an effective approach toward**
13 **the detention and humane treatment of cap-**
14 **tured terrorists. The effective approach re-**
15 **ferred to in this section may, as appropriate,**
16 **draw on Article 3 of the Convention Relative**
17 **to the Treatment of Prisoners of War, done at**
18 **Geneva on August 12, 1949 (6 UST 3316).**

19 [SEC. 4015. SENSE OF CONGRESS AND REPORT REGARDING
20 COUNTER-DRUG EFFORTS IN AFGHANISTAN.

21 **[(a) SENSE OF CONGRESS.—It is the sense of**
22 **Congress that—**

23 **[(1) the President should make the**
24 **substantial reduction of illegal drug pro-**

1 **duction and trafficking in Afghanistan a**
2 **priority in the Global War on Terrorism;**

3 **[(2) the Secretary of Defense, in co-**
4 **ordination with the Secretary of State,**
5 **Attorney General, and the heads of other**
6 **appropriate Federal agencies, should ex-**
7 **pand cooperation with the Government**
8 **of Afghanistan and international organi-**
9 **zations involved in counter-drug activi-**
10 **ties to assist in providing a secure envi-**
11 **ronment for counter-drug personnel in**
12 **Afghanistan; and**

13 **[(3) the United States, in conjunction**
14 **with the Government of Afghanistan and**
15 **coalition partners, should undertake ad-**
16 **ditional efforts to reduce illegal drug**
17 **trafficking and related activities that**
18 **provide financial support for terrorist or-**
19 **ganizations in Afghanistan and neigh-**
20 **oring countries.**

21 **[(b) REPORT REQUIRED.—(1) The Secretary**
22 **of Defense and the Secretary of State shall**
23 **jointly prepare a report that describes—**

24 **[(A) the progress made towards sub-**
25 **stantially reducing poppy cultivation and**

1 heroin production capabilities in Afghan-
2 istan; and

3 [(B) the extent to which profits from
4 illegal drug activity in Afghanistan are
5 used to financially support terrorist orga-
6 nizations and groups seeking to under-
7 mine the Government of Afghanistan.

8 [(2) The report required by this sub-
9 section shall be submitted to Congress not
10 later than 120 days after the date of the enact-
11 ment of this Act.

12 **[Subtitle B—Prevent the**
13 **Continued Growth of Terrorism**
14 **[CHAPTER 1—UNITED STATES PUBLIC**
15 **DIPLOMACY**

16 [SEC. 4021. ANNUAL REVIEW AND ASSESSMENT OF PUBLIC
17 DIPLOMACY STRATEGY.

18 **[(a) IN GENERAL.—The Secretary of State,**
19 **in coordination with all appropriate Federal**
20 **agencies, shall submit to the Committee on**
21 **International Relations of the House of Rep-**
22 **resentatives and the Committee on Foreign**
23 **Relations of the Senate an annual assessment**
24 **of the impact of public diplomacy efforts on**
25 **target audiences. Each assessment shall re-**

1 view the United States public diplomacy
2 strategy worldwide and by region, including
3 an examination of the allocation of resources
4 and an evaluation and assessment of the
5 progress in, and barriers to, achieving the
6 goals set forth under previous plans sub-
7 mitted under this section. Not later than
8 March 15 of every year, the Secretary shall
9 submit the assessment required by this sub-
10 section.

11 **[(b) FURTHER ACTION.—** On the basis of
12 such review, the Secretary, in coordination
13 with all appropriate Federal agencies, shall
14 submit, as part of the annual budget submis-
15 sion, a public diplomacy strategy plan which
16 specifies goals, agency responsibilities, and
17 necessary resources and mechanisms for
18 achieving such goals during the next fiscal
19 year. The plan may be submitted in classified
20 form.

21 **[SEC. 4022. PUBLIC DIPLOMACY TRAINING.**

22 **[(a) STATEMENT OF POLICY.—**It should be
23 the policy of the United States:

1 **[(1) The Foreign Service should re-**
2 **cruit individuals with expertise and pro-**
3 **fessional experience in public diplomacy.**

4 **[(2) United States chiefs of mission**
5 **should have a prominent role in the for-**
6 **mulation of public diplomacy strategies**
7 **for the countries and regions to which**
8 **they are assigned and should be account-**
9 **able for the operation and success of pub-**
10 **lic diplomacy efforts at their posts.**

11 **[(3) Initial and subsequent training of**
12 **Foreign Service officers should be en-**
13 **hanced to include information and train-**
14 **ing on public diplomacy and the tools**
15 **and technology of mass communication.**

16 **[(b) PERSONNEL.—**

17 **[(1) QUALIFICATIONS.—In the recruit-**
18 **ment, training, and assignment of mem-**
19 **bers of the Foreign Service, the Secretary**
20 **of State shall emphasize the importance**
21 **of public diplomacy and applicable skills**
22 **and techniques. The Secretary shall con-**
23 **sider the priority recruitment into the**
24 **Foreign Service, at middle-level entry, of**
25 **individuals with expertise and profes-**

1 sional experience in public diplomacy,
2 mass communications, or journalism. The
3 Secretary shall give special consideration
4 to individuals with language facility and
5 experience in particular countries and
6 regions.

7 **[(2) LANGUAGES OF SPECIAL INTEREST.—**
8 The Secretary of State shall seek to in-
9 crease the number of Foreign Service of-
10 ficers proficient in languages spoken in
11 predominantly Muslim countries. Such
12 increase shall be accomplished through
13 the recruitment of new officers and in-
14 centives for officers in service.

15 **[SEC. 4023. PROMOTING DIRECT EXCHANGES WITH MUS-**
16 **LIM COUNTRIES.**

17 **[(a) DECLARATION OF POLICY.—Congress**
18 declares that the United States should commit
19 to a long-term and sustainable investment in
20 promoting engagement with people of all lev-
21 els of society in countries with predominantly
22 Muslim populations, particularly with youth
23 and those who influence youth. Such an in-
24 vestment should make use of the talents and
25 resources in the private sector and should in-

1 clude programs to increase the number of
2 people who can be exposed to the United
3 States and its fundamental ideas and values
4 in order to dispel misconceptions. Such pro-
5 grams should include youth exchange pro-
6 grams, young ambassadors programs, inter-
7 national visitor programs, academic and cul-
8 tural exchange programs, American Corner
9 programs, library programs, journalist ex-
10 change programs, sister city programs, and
11 other programs related to people-to-people di-
12 plomacy.

13 **[(b) SENSE OF CONGRESS.—It is the sense of**
14 **Congress that the United States should sig-**
15 **nificantly increase its investment in the peo-**
16 **ple-to-people programs described in sub-**
17 **section (a).**

18 **[SEC. 4024. PUBLIC DIPLOMACY REQUIRED FOR PRO-**
19 **MOTION IN FOREIGN SERVICE.**

20 **[(a) IN GENERAL.—Section 603(b) of the**
21 **Foreign Service Act of 1980 (22 U.S.C. 4003(b))**
22 **is amended by adding at the end the following**
23 **new sentences: “The precepts for such selec-**
24 **tion boards shall also consider whether the**
25 **member of the Service or the member of the**

1 Senior Foreign Service, as the case may be,
2 has served in at least one position in which
3 the primary responsibility of such member
4 was related to public diplomacy. A member
5 may not be promoted into or within the Sen-
6 ior Foreign Service if such member has not
7 served in at least one such position.”.

8 [(b) EFFECTIVE DATE.—The amendment
9 made by subsection (a) shall take effect on
10 January 1, 2009.

11 [CHAPTER 2—UNITED STATES
12 MULTILATERAL DIPLOMACY

13 [SEC. 4031. PURPOSE.

14 [It is the purpose of this chapter to
15 strengthen United States leadership and ef-
16 fectiveness at international organizations and
17 multilateral institutions.

18 [SEC. 4032. SUPPORT AND EXPANSION OF DEMOCRACY
19 CAUCUS.

20 [(a) IN GENERAL.—The President, acting
21 through the Secretary of State and the rel-
22 evant United States chiefs of mission, shall—

23 [(1) continue to strongly support and
24 seek to expand the work of the democ-
25 racy caucus at the United Nations Gen-

1 eral Assembly and the United Nations
2 Human Rights Commission; and

3 [(2) seek to establish a democracy
4 caucus at the United Nations Conference
5 on Disarmament and at other broad-
6 based international organizations.

7 [(b) PURPOSES OF THE CAUCUS.—A democ-
8 racy caucus at an international organization
9 should—

10 [(1) forge common positions, includ-
11 ing, as appropriate, at the ministerial
12 level, on matters of concern before the
13 organization and work within and across
14 regional lines to promote agreed posi-
15 tions;

16 [(2) work to revise an increasingly
17 outmoded system of membership selec-
18 tion, regional voting, and decision mak-
19 ing; and

20 [(3) establish a rotational leadership
21 agreement to provide member countries
22 an opportunity, for a set period of time,
23 to serve as the designated president of
24 the caucus, responsible for serving as its
25 voice in each organization.

1 [SEC. 4033. LEADERSHIP AND MEMBERSHIP OF INTER-
2 NATIONAL ORGANIZATIONS.

3 [(a) UNITED STATES POLICY.—The Presi-
4 dent, acting through the Secretary of State
5 and the relevant United States chiefs of mis-
6 sion, shall use the voice, vote, and influence
7 of the United States to—

8 [(1) where appropriate, reform the
9 criteria for leadership and, in appro-
10 priate cases, for membership, at all
11 United Nations bodies and at other inter-
12 national organizations and multilateral
13 institutions to which the United States is
14 a member so as to exclude countries that
15 violate the principles of the specific orga-
16 nization;

17 [(2) make it a policy of the United Na-
18 tions and other international organiza-
19 tions and multilateral institutions of
20 which the United States is a member that
21 a member country may not stand in nom-
22 ination for membership or in nomination
23 or in rotation for a leadership position in
24 such bodies if the member country is sub-
25 ject to sanctions imposed by the United
26 Nations Security Council; and

1 **[(3) work to ensure that no member**
2 **country stand in nomination for member-**
3 **ship, or in nomination or in rotation for**
4 **a leadership position in such organiza-**
5 **tions, or for membership on the United**
6 **Nations Security Council, if the member**
7 **country is subject to a determination**
8 **under section 6(j)(1)(A) of the Export Ad-**
9 **ministration Act of 1979 (50 U.S.C. App.**
10 **2405(j)(1)(A)), section 620A(a) of the For-**
11 **eign Assistance Act of 1961 (22 U.S.C.**
12 **2371(a)), or section 40(d) of the Arms Ex-**
13 **port Control Act (22 U.S.C. 2780(d)).**

14 **[(b) REPORT TO CONGRESS.—Not later than**
15 **15 days after a country subject to a deter-**
16 **mination under one or more of the provisions**
17 **of law specified in subsection (a)(3) is selected**
18 **for membership or a leadership post in an**
19 **international organization of which the**
20 **United States is a member or for membership**
21 **on the United Nations Security Council, the**
22 **Secretary of State shall submit to the Com-**
23 **mittee on International Relations of the**
24 **House of Representatives and the Committee**

1 on Foreign Relations of the Senate a report on
2 any steps taken pursuant to subsection (a)(3).

3 [SEC. 4034. INCREASED TRAINING IN MULTILATERAL DI-
4 PLOMACY.

5 [(a) TRAINING PROGRAMS.—Section 708 of
6 the Foreign Service Act of 1980 (22 U.S.C.
7 4028) is amended by adding at the end the fol-
8 lowing new subsection:

9 [(c) TRAINING IN MULTILATERAL DIPLO-
10 MACY.—

11 [(1) IN GENERAL.—The Secretary
12 shall establish a series of training
13 courses for officers of the Service, includ-
14 ing appropriate chiefs of mission, on the
15 conduct of diplomacy at international or-
16 ganizations and other multilateral insti-
17 tutions and at broad-based multilateral
18 negotiations of international instru-
19 ments.

20 [(2) PARTICULAR PROGRAMS.—The
21 Secretary shall ensure that the training
22 described in paragraph (1) is provided at
23 various stages of the career of members
24 of the service. In particular, the Sec-

1 retary shall ensure that after January 1,
2 2006—

3 [“(A) officers of the Service re-
4 ceive training on the conduct of di-
5 plomacy at international organiza-
6 tions and other multilateral institu-
7 tions and at broad-based multilateral
8 negotiations of international instru-
9 ments as part of their training upon
10 entry into the Service; and

11 [“(B) officers of the Service, in-
12 cluding chiefs of mission, who are as-
13 signed to United States missions rep-
14 resenting the United States to inter-
15 national organizations and other mul-
16 tilateral institutions or who are as-
17 signed in Washington, D.C., to posi-
18 tions that have as their primary re-
19 sponsibility formulation of policy to-
20 wards such organizations and institu-
21 tions or towards participation in
22 broad-based multilateral negotiations
23 of international instruments, receive
24 specialized training in the areas de-
25 scribed in paragraph (1) prior to be-

1 **ginning of service for such assign-**
2 **ment or, if receiving such training at**
3 **that time is not practical, within the**
4 **first year of beginning such assign-**
5 **ment.”.**

6 **[(b) TRAINING FOR CIVIL SERVICE EMPLOY-**
7 **EES.—The Secretary shall ensure that employ-**
8 **ees of the Department of State who are mem-**
9 **bers of the civil service and who are assigned**
10 **to positions described in section 708(c) of the**
11 **Foreign Service Act of 1980 (as amended by**
12 **subsection (a)) receive training described in**
13 **such section.**

14 **[(c) CONFORMING AMENDMENTS.—Section**
15 **708 of such Act is further amended—**

16 **[(1) in subsection (a), by striking “(a)**
17 **The” and inserting “(a) TRAINING ON**
18 **HUMAN RIGHTS.—The”; and**

19 **[(2) in subsection (b), by striking “(b)**
20 **The” and inserting “(b) TRAINING ON REF-**
21 **UGEE LAW AND RELIGIOUS PERSECUTION.—**
22 **The”.**

1 [SEC. 4035. IMPLEMENTATION AND ESTABLISHMENT OF
2 OFFICE ON MULTILATERAL NEGOTIATIONS.

3 [(a) ESTABLISHMENT OF OFFICE.—The Sec-
4 retary of State is authorized to establish,
5 within the Bureau of International Organiza-
6 tional Affairs, an Office on Multilateral Nego-
7 tiations to be headed by a Special Representa-
8 tive for Multilateral Negotiations (in this sec-
9 tion referred to as the “Special Representa-
10 tive”).

11 [(b) APPOINTMENT.—The Special Rep-
12 resentative shall be appointed by the Presi-
13 dent and shall have the rank of Ambassador-
14 at-Large. At the discretion of the President
15 another official at the Department may serve
16 as the Special Representative.

17 [(c) STAFFING.—The Special Representa-
18 tive shall have a staff of Foreign Service and
19 civil service officers skilled in multilateral di-
20 plomacy.

21 [(d) DUTIES.—The Special Representative
22 shall have the following responsibilities:

23 [(1) IN GENERAL.—The primary re-
24 sponsibility of the Special Representative
25 shall be to assist in the organization of,
26 and preparation for, United States par-

1 **icipation in multilateral negotiations, in-**
2 **cluding advocacy efforts undertaken by**
3 **the Department of State and other United**
4 **States Government agencies.**

5 **[(2) CONSULTATIONS.—The Special**
6 **Representative shall consult with Con-**
7 **gress, international organizations, non-**
8 **governmental organizations, and the pri-**
9 **vate sector on matters affecting multilat-**
10 **eral negotiations.**

11 **[(3) ADVISORY ROLE.—The Special Rep-**
12 **resentative shall advise the Assistant Sec-**
13 **retary for International Organizational**
14 **Affairs and, as appropriate, the Secretary**
15 **of State, regarding advocacy at inter-**
16 **national organizations, multilateral insti-**
17 **tutions, and negotiations, and shall make**
18 **recommendations regarding—**

19 **[(A) effective strategies (and tac-**
20 **tics) to achieve United States policy**
21 **objectives at multilateral negotia-**
22 **tions;**

23 **[(B) the need for and timing of**
24 **high level intervention by the Presi-**
25 **dent, the Secretary of State, the Dep-**

1 uty Secretary of State, and other
2 United States officials to secure sup-
3 port from key foreign government of-
4 ficials for United States positions at
5 such organizations, institutions, and
6 negotiations; and

7 [(C) the composition of United
8 States delegations to multilateral ne-
9 gotiations.

10 [(4) ANNUAL DIPLOMATIC MISSIONS OF
11 MULTILATERAL ISSUES.—The Special Rep-
12 resentative, in coordination with the As-
13 sistant Secretary for International Orga-
14 nizational Affairs, shall organize annual
15 diplomatic missions to appropriate for-
16 eign countries to conduct consultations
17 between principal officers responsible for
18 advising the Secretary of State on inter-
19 national organizations and high-level
20 representatives of the governments of
21 such foreign countries to promote the
22 United States agenda at the United Na-
23 tions General Assembly and other key
24 international fora (such as the United Na-
25 tions Human Rights Commission).

1 **[(5) LEADERSHIP AND MEMBERSHIP OF**
2 **INTERNATIONAL ORGANIZATIONS.—The Spe-**
3 **cial Representative, in coordination with**
4 **the Assistant Secretary of International**
5 **Organizational Affairs, shall direct the ef-**
6 **forts of the United States to reform the**
7 **criteria for leadership of and member-**
8 **ship in international organizations as de-**
9 **scribed in section 4033.**

10 **[(6) PARTICIPATION IN MULTILATERAL**
11 **NEGOTIATIONS.—The Secretary of State**
12 **may direct the Special Representative to**
13 **serve as a member of a United States del-**
14 **egation to any multilateral negotiation.**

15 **[CHAPTER 3—OTHER PROVISIONS**

16 **[SEC. 4041. PILOT PROGRAM TO PROVIDE GRANTS TO**
17 **AMERICAN-SPONSORED SCHOOLS IN PRE-**
18 **DOMINANTLY MUSLIM COUNTRIES TO PRO-**
19 **VIDE SCHOLARSHIPS.**

20 **[(a) FINDINGS.—Congress finds the fol-**
21 **lowing:**

22 **[(1) During the 2003–2004 school year,**
23 **the Office of Overseas Schools of the De-**
24 **partment of State is financially assisting**

1 **189 elementary and secondary schools in**
2 **foreign countries.**

3 **[(2) American-sponsored elementary**
4 **and secondary schools are located in**
5 **more than 20 countries with significant**
6 **Muslim populations in the Near East, Af-**
7 **rica, South Asia, Central Asia, and East**
8 **Asia.**

9 **[(3) American-sponsored elementary**
10 **and secondary schools provide an Amer-**
11 **ican-style education in English, with cur-**
12 **ricula that typically include an emphasis**
13 **on the development of critical thinking**
14 **and analytical skills.**

15 **[(b) PURPOSE.—The United States has an**
16 **interest in increasing the level of financial**
17 **support provided to American-sponsored ele-**
18 **mentary and secondary schools in predomi-**
19 **nantly Muslim countries, in order to—**

20 **[(1) increase the number of students**
21 **in such countries who attend such**
22 **schools;**

23 **[(2) increase the number of young**
24 **people who may thereby gain at any**
25 **early age an appreciation for the culture,**

1 society, and history of the United States;
2 and

3 [(3) increase the number of young
4 people who may thereby improve their
5 proficiency in the English language.

6 [(c) PILOT PROGRAM AUTHORIZED.—The
7 Secretary of State, acting through the Direc-
8 tor of the Office of Overseas Schools of the De-
9 partment of State, may conduct a pilot pro-
10 gram to make grants to American-sponsored
11 elementary and secondary schools in pre-
12 dominantly Muslim countries for the purpose
13 of providing full or partial merit-based schol-
14 arships to students from lower- and middle-
15 income families of such countries to attend
16 such schools.

17 [(d) DETERMINATION OF ELIGIBLE STU-
18 DENTS.—For purposes of expending grant
19 funds, an American-sponsored elementary
20 and secondary school that receives a grant
21 under subsection (c) is authorized to establish
22 criteria to be implemented by such school to
23 determine what constitutes lower- and mid-
24 dle-income families in the country (or region
25 of the country, if regional variations in in-

1 come levels in the country are significant) in
2 which such school is located.

3 **[(e) RESTRICTION ON USE OF FUNDS.—**
4 **Amounts appropriated to the Secretary of**
5 **State pursuant to the authorization of appro-**
6 **priations in subsection (h) shall be used for**
7 **the sole purpose of making grants under this**
8 **section, and may not be used for the adminis-**
9 **tration of the Office of Overseas Schools of**
10 **the Department of State or for any other ac-**
11 **tivity of the Office.**

12 **[(f) VOLUNTARY PARTICIPATION.—Nothing**
13 **in this section shall be construed to require**
14 **participation in the pilot program by an**
15 **American-sponsored elementary or secondary**
16 **school in a predominantly Muslim country.**

17 **[(g) REPORT.—Not later than April 15,**
18 **2006, the Secretary shall submit to the Com-**
19 **mittee on International Relations of the**
20 **House of Representatives and the Committee**
21 **on Foreign Relations of the Senate a report on**
22 **the pilot program. The report shall assess the**
23 **success of the program, examine any obsta-**
24 **cles encountered in its implementation, and**
25 **address whether it should be continued, and**

1 if so, provide recommendations to increase its
2 effectiveness.

3 **[(h) FUNDING.—There are authorized to be**
4 **appropriated to the Secretary of State such**
5 **sums as may be necessary for each of fiscal**
6 **years 2005, 2006, and 2007 to carry out this**
7 **section.**

8 **[SEC. 4042. ENHANCING FREE AND INDEPENDENT MEDIA.**

9 **[(a) FINDINGS.—Congress makes the fol-**
10 **lowing findings:**

11 **[(1) Freedom of speech and freedom**
12 **of the press are fundamental human**
13 **rights.**

14 **[(2) The United States has a national**
15 **interest in promoting these freedoms by**
16 **supporting free media abroad, which is**
17 **essential to the development of free and**
18 **democratic societies consistent with our**
19 **own.**

20 **[(3) Free media is undermined, en-**
21 **dangered, or nonexistent in many repres-**
22 **sive and transitional societies around the**
23 **world, including in Eurasia, Africa, and**
24 **the Middle East.**

1 **[(4) Individuals lacking access to a**
2 **plurality of free media are vulnerable to**
3 **misinformation and propaganda and are**
4 **potentially more likely to adopt anti-**
5 **American views.**

6 **[(5) Foreign governments have a re-**
7 **sponsibility to actively and publicly dis-**
8 **courage and rebut unprofessional and**
9 **unethical media while respecting journal-**
10 **istic integrity and editorial independ-**
11 **ence.**

12 **[(b) STATEMENTS OF POLICY.—It shall be**
13 **the policy of the United States, acting through**
14 **the Secretary of State, to—**

15 **[(1) ensure that the promotion of**
16 **press freedoms and free media worldwide**
17 **is a priority of United States foreign pol-**
18 **icy and an integral component of United**
19 **States public diplomacy;**

20 **[(2) respect the journalistic integrity**
21 **and editorial independence of free media**
22 **worldwide; and**

23 **[(3) ensure that widely accepted**
24 **standards for professional and ethical**
25 **journalistic and editorial practices are**

1 employed when assessing international
2 media.

3 **[(c) GRANTS TO PRIVATE SECTOR GROUP TO**
4 **ESTABLISH MEDIA NETWORK.—**

5 **[(1) IN GENERAL.—**Grants made avail-
6 able to the National Endowment for De-
7 mocracy (NED) pursuant to paragraph (3)
8 shall be used by NED to provide funding
9 to a private sector group to establish and
10 manage a free and independent media
11 network in accordance with paragraph
12 (2).

13 **[(2) PURPOSE.—**The purpose of the
14 network shall be to provide an effective
15 forum to convene a broad range of indi-
16 viduals, organizations, and governmental
17 participants involved in journalistic ac-
18 tivities and the development of free and
19 independent media to—

20 **[(A) fund a clearinghouse to col-**
21 lect and share information con-
22 cerning international media develop-
23 ment and training;

24 **[(B) improve research in the field**
25 of media assistance and program

1 **evaluation to better inform decisions**
2 **regarding funding and program de-**
3 **sign for government and private do-**
4 **nors;**

5 **[(C) explore the most appropriate**
6 **use of existing means to more effec-**
7 **tively encourage the involvement of**
8 **the private sector in the field of**
9 **media assistance; and**

10 **[(D) identify effective methods for**
11 **the development of a free and inde-**
12 **pendent media in societies in transi-**
13 **tion.**

14 **[(3) FUNDING.—For grants made by**
15 **the Department of State to NED as au-**
16 **thorized by the National Endowment for**
17 **Democracy Act (Public Law 98–164, 97**
18 **Stat. 1039), there are authorized to be ap-**
19 **propriated to the Secretary of State such**
20 **sums as may be necessary for each of fis-**
21 **cal years 2005, 2006, and 2007 to carry out**
22 **this section.**

1 [SEC. 4043. COMBATING BIASED OR FALSE FOREIGN MEDIA
2 COVERAGE OF THE UNITED STATES.

3 [(a) FINDINGS.—Congress finds the fol-
4 lowing:

5 [(1) Biased or false media coverage of
6 the United States and its allies is a sig-
7 nificant factor encouraging terrorist acts
8 against the people of the United States.

9 [(2) Public diplomacy efforts de-
10 signed to encourage an accurate under-
11 standing of the people of the United
12 States and the policies of the United
13 States are unlikely to succeed if foreign
14 publics are subjected to unrelenting bi-
15 ased or false local media coverage of the
16 United States.

17 [(3) Where freedom of the press exists
18 in foreign countries the United States
19 can combat biased or false media cov-
20 erage by responding in the foreign media
21 or by communicating directly to foreign
22 publics in such countries.

23 [(4) Foreign governments which en-
24 courage biased or false media coverage of
25 the United States bear a significant de-
26 gree of responsibility for creating a cli-

1 **mate within which terrorism can flour-**
2 **ish. Such governments are responsible**
3 **for encouraging biased or false media**
4 **coverage if they—**

5 **[(A) issue direct or indirect in-**
6 **structions to the media to publish bi-**
7 **ased or false information regarding**
8 **the United States;**

9 **[(B) make deliberately biased or**
10 **false charges expecting that such**
11 **charges will be disseminated; or**

12 **[(C) so severely constrain the**
13 **ability of the media to express criti-**
14 **cism of any such government that one**
15 **of the few means of political expres-**
16 **sion available is criticism of the**
17 **United States.**

18 **[(b) STATEMENTS OF POLICY.—**

19 **[(1) FOREIGN GOVERNMENTS.—It shall**
20 **be the policy of the United States to re-**
21 **gard foreign governments as knowingly**
22 **engaged in unfriendly acts toward the**
23 **United States if such governments—**

24 **[(A) instruct their state-owned or**
25 **influenced media to include content**

1 that is anti-American or prejudicial
2 to the foreign and security policies of
3 the United States; or

4 [(B) make deliberately false
5 charges regarding the United States
6 or permit false or biased charges
7 against the United States to be made
8 while constraining normal political
9 discourse.

10 [(2) SEEKING MEDIA ACCESS; RESPOND-
11 ING TO FALSE CHARGES.—It shall be the
12 policy of the United States to—

13 [(A) seek access to the media in
14 foreign countries on terms no less fa-
15 vorable than those afforded any other
16 foreign entity or on terms available
17 to the foreign country in the United
18 States; and

19 [(B) combat biased or false media
20 coverage in foreign countries of the
21 United States and its allies by re-
22 sponding in the foreign media or by
23 communicating directly to foreign
24 publics.

1 **[(c) RESPONSIBILITIES REGARDING BIASED**
2 **OR FALSE MEDIA COVERAGE.—**

3 **[(1) SECRETARY OF STATE.—The Sec-**
4 **retary of State shall instruct chiefs of**
5 **mission to report on and combat biased**
6 **or false media coverage originating in or**
7 **received in foreign countries to which**
8 **such chiefs are posted. Based on such re-**
9 **ports and other information available to**
10 **the Secretary, the Secretary shall**
11 **prioritize efforts to combat such media**
12 **coverage, giving special attention to audi-**
13 **ences where fostering popular opposition**
14 **to terrorism is most important and such**
15 **media coverage is most prevalent.**

16 **[(2) CHIEFS OF MISSION.—Chiefs of mis-**
17 **sion shall have the following responsibil-**
18 **ities:**

19 **[(A) Chiefs of mission shall give**
20 **strong priority to combatting biased**
21 **or false media reports in foreign**
22 **countries to which such chiefs are**
23 **posted regarding the United States.**

24 **[(B) Chiefs of mission posted to**
25 **foreign countries in which freedom of**

1 the press exists shall inform the gov-
2 ernments of such countries of the
3 policies of the United States regard-
4 ing biased or false media coverage of
5 the United States, and shall make
6 strong efforts to persuade such gov-
7 ernments to change policies that en-
8 courage such media coverage.

9 **[(d) REPORTS.—**Not later than 120 days
10 **after the date of the enactment of this Act and**
11 **at least annually thereafter until January 1,**
12 **2015, the Secretary shall submit to the Com-**
13 **mittee on International Relations of the**
14 **House of Representatives and the Committee**
15 **on Foreign Relations of the Senate a report**
16 **regarding the major themes of biased or false**
17 **media coverage of the United States in for-**
18 **ign countries, the actions taken to persuade**
19 **foreign governments to change policies that**
20 **encourage such media coverage (and the re-**
21 **sults of such actions), and any other actions**
22 **taken to combat such media coverage in for-**
23 **ign countries.**

1 [SEC. 4044. REPORT ON BROADCAST OUTREACH STRATEGY.

2 [(a) REPORT.—Not later than 180 days
3 after the date of the enactment of this Act, the
4 President shall transmit to the Committee on
5 International Relations of the House of Rep-
6 resentatives and the Committee on Foreign
7 Relations of the Senate a report on the strat-
8 egy of the United States to expand its out-
9 reach to foreign Muslim audiences through
10 broadcast media.

11 [(b) CONTENT.—The report required under
12 subsection (a) shall contain the following:

13 [(1) An assessment of the Broad-
14 casting Board of Governors and the pub-
15 lic diplomacy activities of the Depart-
16 ment of State with respect to outreach to
17 foreign Muslim audiences through broad-
18 cast media.

19 [(2) An outline of recommended ac-
20 tions that the United States should take
21 to more regularly and comprehensively
22 present a United States point of view
23 through indigenous broadcast media in
24 countries with sizeable Muslim popu-
25 lations, including increasing appearances

1 by United States Government officials,
2 experts, and citizens.

3 **[(3) An assessment of potential incen-**
4 **tives for, and costs associated with, en-**
5 **couraging United States broadcasters to**
6 **dub or subtitle into Arabic and other rel-**
7 **evant languages their news and public af-**
8 **fairs programs broadcast in Muslim coun-**
9 **tries in order to present those programs**
10 **to a much broader Muslim audience than**
11 **is currently reached.**

12 **[(4) An assessment of providing a**
13 **training program in media and press af-**
14 **fairs for members of the Foreign Service.**

15 **[SEC. 4045. OFFICE RELOCATION.**

16 **[As soon as practicable after the date of**
17 **the enactment of this Act, the Secretary of**
18 **State shall take such actions as are necessary**
19 **to consolidate within the Harry S. Truman**
20 **Building all offices of the Department of State**
21 **that are responsible for the conduct of public**
22 **diplomacy, including the Bureau of Edu-**
23 **cational and Cultural Affairs.**

1 [SEC. 4046. STRENGTHENING THE COMMUNITY OF DEMOC-
2 RACIES FOR MUSLIM COUNTRIES.

3 [(a) SENSE OF CONGRESS.—It is the sense of
4 Congress that the United States—

5 [(1) should work with the Community
6 of Democracies to discuss, develop, and
7 refine policies and assistance programs
8 to support and promote political, eco-
9 nomic, judicial, educational, and social
10 reforms in Muslim countries;

11 [(2) should, as part of that effort, se-
12 cure support to require countries seeking
13 membership in the Community of Democ-
14 racies to be in full compliance with the
15 Community's criteria for participation, as
16 established by the Community's Con-
17 vening Group, should work to ensure
18 that the criteria are part of a legally
19 binding document, and should urge other
20 donor countries to use compliance with
21 the criteria as a basis for determining
22 diplomatic and economic relations (in-
23 cluding assistance programs) with such
24 participating countries; and

25 [(3) should seek support for inter-
26 national contributions to the Community

1 of Democracies and should seek author-
2 ity for the Community's Convening
3 Group to oversee adherence and compli-
4 ance of participating countries with the
5 criteria.

6 **[(b) MIDDLE EAST PARTNERSHIP INITIATIVE**
7 **AND BROADER MIDDLE EAST AND NORTH AFRICA**
8 **INITIATIVE.—**Amounts made available to carry
9 out the Middle East Partnership Initiative
10 and the Broader Middle East and North Africa
11 Initiative may be made available to the Com-
12 munity of Democracies in order to strengthen
13 and expand its work with Muslim countries.

14 **[(c) REPORT.—**The Secretary of State shall
15 include in the annual report entitled "Sup-
16 porting Human Rights and Democracy: The
17 U.S. Record" a description of efforts by the
18 Community of Democracies to support and
19 promote political, economic, judicial, edu-
20 cational, and social reforms in Muslim coun-
21 tries and the extent to which such countries
22 meet the criteria for participation in the Com-
23 munity of Democracies.

1 **[Subtitle C—Reform of Designation**
2 **of Foreign Terrorist Organizations**

3 **[SEC. 4051. DESIGNATION OF FOREIGN TERRORIST ORGA-**
4 **NIZATIONS.**

5 **[(a) PERIOD OF DESIGNATION.—Section**
6 **219(a)(4) of the Immigration and Nationality**
7 **Act (8 U.S.C. 1189(a)(4)) is amended—**

8 **[(1) in subparagraph (A)—**

9 **[(A) by striking “Subject to para-**
10 **graphs (5) and (6), a” and inserting**
11 **“A”; and**

12 **[(B) by striking “for a period of 2**
13 **years beginning on the effective date**
14 **of the designation under paragraph**
15 **(2)(B)” and inserting “until revoked**
16 **under paragraph (5) or (6) or set**
17 **aside pursuant to subsection (c)”;**

18 **[(2) by striking subparagraph (B) and**
19 **inserting the following:**

20 **[“(B) REVIEW OF DESIGNATION UPON**
21 **PETITION.—**

22 **[“(i) IN GENERAL.—The Sec-**
23 **retary shall review the designa-**
24 **tion of a foreign terrorist organi-**
25 **zation under the procedures set**

1 forth in clauses (iii) and (iv) if the
2 designated organization files a
3 petition for revocation within the
4 petition period described in
5 clause (ii).

6 [“(ii) PETITION PERIOD.—For
7 purposes of clause (i)—

8 [“(I) if the designated or-
9 ganization has not previously
10 filed a petition for revocation
11 under this subparagraph, the
12 petition period begins 2 years
13 after the date on which the
14 designation was made; or

15 [“(II) if the designated or-
16 ganization has previously
17 filed a petition for revocation
18 under this subparagraph, the
19 petition period begins 2 years
20 after the date of the deter-
21 mination made under clause
22 (iv) on that petition.

23 [“(iii) PROCEDURES.—Any for-
24 eign terrorist organization that
25 submits a petition for revocation

1 under this subparagraph must
2 provide evidence in that petition
3 that the relevant circumstances
4 described in paragraph (1) have
5 changed in such a manner as to
6 warrant revocation with respect
7 to the organization.

8 [“(iv) DETERMINATION.—

9 [“(I) IN GENERAL.—Not
10 later than 180 days after re-
11 ceiving a petition for revoca-
12 tion submitted under this sub-
13 paragraph, the Secretary
14 shall make a determination as
15 to such revocation.

16 [“(II) CLASSIFIED INFORMA-
17 TION.—The Secretary may con-
18 sider classified information in
19 making a determination in re-
20 sponse to a petition for rev-
21 ocation. Classified informa-
22 tion shall not be subject to
23 disclosure for such time as it
24 remains classified, except that
25 such information may be dis-

1 closed to a court ex parte and
2 in camera for purposes of ju-
3 dicial review under sub-
4 section (c).

5 [“(III) PUBLICATION OF DE-
6 TERMINATION.—A determina-
7 tion made by the Secretary
8 under this clause shall be
9 published in the Federal Reg-
10 ister.

11 [“(IV) PROCEDURES.—Any
12 revocation by the Secretary
13 shall be made in accordance
14 with paragraph (6).”; and

15 [(3) by adding at the end the fol-
16 lowing:

17 [“(C) OTHER REVIEW OF DESIGNA-
18 TION.—

19 [“(i) IN GENERAL.—If in a 6-
20 year period no review has taken
21 place under subparagraph (B),
22 the Secretary shall review the
23 designation of the foreign ter-
24 rorist organization in order to de-
25 termine whether such designation

1 should be revoked pursuant to
2 paragraph (6).

3 **[(“ii) PROCEDURES.—If a re-**
4 **view does not take place pursuant**
5 **to subparagraph (B) in response**
6 **to a petition for revocation that is**
7 **filed in accordance with that sub-**
8 **paragraph, then the review shall**
9 **be conducted pursuant to proce-**
10 **dures established by the Sec-**
11 **retary. The results of such review**
12 **and the applicable procedures**
13 **shall not be reviewable in any**
14 **court.**

15 **[(“iii) PUBLICATION OF RESULTS**
16 **OF REVIEW.—The Secretary shall**
17 **publish any determination made**
18 **pursuant to this subparagraph in**
19 **the Federal Register.”.**

20 **[(b) ALIASES.—Section 219 of the Immigra-**
21 **tion and Nationality Act (8 U.S.C. 1189) is**
22 **amended—**

23 **[(1) by redesignating subsections (b)**
24 **and (c) as subsections (c) and (d), respec-**
25 **tively; and**

1 **[(2) by inserting after subsection (a)**
2 **the following new subsection (b):**

3 **["(b) AMENDMENTS TO A DESIGNATION.—**

4 **["(1) IN GENERAL.—The Secretary may**
5 **amend a designation under this sub-**
6 **section if the Secretary finds that the or-**
7 **ganization has changed its name, adopted**
8 **a new alias, dissolved and then reconsti-**
9 **tuted itself under a different name or**
10 **names, or merged with another organiza-**
11 **tion.**

12 **["(2) PROCEDURE.—Amendments made**
13 **to a designation in accordance with para-**
14 **graph (1) shall be effective upon publica-**
15 **tion in the Federal Register. Subpara-**
16 **graphs (B) and (C) of subsection (a)(2)**
17 **shall apply to an amended designation**
18 **upon such publication. Paragraphs**
19 **(2)(A)(i), (4), (5), (6), (7), and (8) of sub-**
20 **section (a) shall also apply to an amended**
21 **designation.**

22 **["(3) ADMINISTRATIVE RECORD.—The**
23 **administrative record shall be corrected**
24 **to include the amendments as well as any**

1 **additional relevant information that sup-**
2 **ports those amendments.**

3 **[(4) CLASSIFIED INFORMATION.—The**
4 **Secretary may consider classified infor-**
5 **mation in amending a designation in ac-**
6 **cordance with this subsection. Classified**
7 **information shall not be subject to disclo-**
8 **sure for such time as it remains classi-**
9 **fied, except that such information may be**
10 **disclosed to a court ex parte and in cam-**
11 **era for purposes of judicial review under**
12 **subsection (c).”.**

13 **[(c) TECHNICAL AND CONFORMING AMEND-**
14 **MENTS.—Section 219 of the Immigration and**
15 **Nationality Act (8 U.S.C. 1189) is amended—**

16 **[(1) in subsection (a)—**

17 **[(A) in paragraph (3)(B), by strik-**
18 **ing “subsection (b)” and inserting**
19 **“subsection (c)”;**

20 **[(B) in paragraph (6)(A)—**

21 **[(i) in the matter preceding**
22 **clause (i), by striking “or a redesi-**
23 **gnation made under paragraph**
24 **(4)(B)” and inserting “at any time,**
25 **and shall revoke a designation**

1 upon completion of a review con-
2 ducted pursuant to subpara-
3 graphs (B) and (C) of paragraph
4 (4)”; and

5 [(ii) in clause (i), by striking
6 “or redesignation”;

7 [(C) in paragraph (7), by striking
8 “, or the revocation of a redesignation
9 under paragraph (6),”; and

10 [(D) in paragraph (8)—

11 [(i) by striking “, or if a redес-
12 ignation under this subsection
13 has become effective under para-
14 graph (4)(B),”; and

15 [(ii) by striking “or redесigna-
16 tion”; and

17 [(2) in subsection (c), as so redесig-
18 nated—

19 [(A) in paragraph (1), by striking
20 “of the designation in the Federal
21 Register,” and all that follows
22 through “review of the designation”
23 and inserting “in the Federal Register
24 of a designation, an amended dес-
25 ignation, or a determination in re-

1 sponse to a petition for revocation,
2 the designated organization may seek
3 judicial review”;

4 [(B) in paragraph (2), by inserting
5 “, amended designation, or deter-
6 mination in response to a petition for
7 revocation” after “designation”;

8 [(C) in paragraph (3), by inserting
9 “, amended designation, or deter-
10 mination in response to a petition for
11 revocation” after “designation”; and

12 [(D) in paragraph (4), by inserting
13 “, amended designation, or deter-
14 mination in response to a petition for
15 revocation” after “designation” each
16 place that term appears.

17 [(d) SAVINGS PROVISION.—For purposes of
18 applying section 219 of the Immigration and
19 Nationality Act on or after the date of enact-
20 ment of this Act, the term “designation”, as
21 used in that section, includes all redesigna-
22 tions made pursuant to section 219(a)(4)(B) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1189(a)(4)(B)) prior to the date of enactment
25 of this Act, and such redesignations shall con-

1 **tinue to be effective until revoked as provided**
2 **in paragraph (5) or (6) of section 219(a) of the**
3 **Immigration and Nationality Act (8 U.S.C.**
4 **1189(a)).**

5 **[SEC. 4052. INCLUSION IN ANNUAL DEPARTMENT OF STATE**
6 **COUNTRY REPORTS ON TERRORISM OF IN-**
7 **FORMATION ON TERRORIST GROUPS THAT**
8 **SEEK WEAPONS OF MASS DESTRUCTION AND**
9 **GROUPS THAT HAVE BEEN DESIGNATED AS**
10 **FOREIGN TERRORIST ORGANIZATIONS.**

11 **[(a) INCLUSION IN REPORTS.—Section 140 of**
12 **the Foreign Relations Authorization Act, Fis-**
13 **cal Years 1988 and 1989 (22 U.S.C. 2656f) is**
14 **amended—**

15 **[(1) in subsection (a)(2)—**

16 **[(A) by inserting “any terrorist**
17 **group known to have obtained or de-**
18 **veloped, or to have attempted to ob-**
19 **tain or develop, weapons of mass de-**
20 **struction,” after “during the pre-**
21 **ceding five years,”; and**

22 **[(B) by inserting “any group des-**
23 **ignated by the Secretary as a foreign**
24 **terrorist organization under section**
25 **219 of the Immigration and Nation-**

1 ality Act (8 U.S.C. 1189),” after “Ex-
2 port Administration Act of 1979,”;

3 [(2) in subsection (b)(1)(C)(iii), by
4 striking “and” at the end;

5 [(3) in subsection (b)(1)(C)—

6 [(A) by redesignating clause (iv)
7 as clause (v); and

8 [(B) by inserting after clause (iii)
9 the following new clause:

10 [“(iv) providing weapons of
11 mass destruction, or assistance in
12 obtaining or developing such
13 weapons, to terrorists or terrorist
14 groups; and”]; and

15 [(4) in subsection (b)(3) (as redesign-
16 ated by section 4002(b)(2)(B) of this
17 Act)—

18 [(A) by redesignating subpara-
19 graphs (C), (D), and (E) as (D), (E),
20 and (F), respectively; and

21 [(B) by inserting after subpara-
22 graph (B) the following new subpara-
23 graph:

1 **[(C) efforts by those groups to**
2 **obtain or develop weapons of mass**
3 **destruction;”.**

4 **[(b) EFFECTIVE DATE.—The amendments**
5 **made by subsection (a) shall apply beginning**
6 **with the first report under section 140 of the**
7 **Foreign Relations Authorization Act, Fiscal**
8 **Years 1988 and 1989 (22 U.S.C. 2656f), sub-**
9 **mitted more than one year after the date of**
10 **the enactment of this Act.**

11 **[Subtitle D—Afghanistan Freedom**
12 **Support Act Amendments of 2004**

13 **[SEC. 4061. SHORT TITLE.**

14 **[This subtitle may be cited as the “Af-**
15 **ghanistan Freedom Support Act Amendments**
16 **of 2004”.**

17 **[SEC. 4062. COORDINATION OF ASSISTANCE FOR AFGHANI-**
18 **STAN.**

19 **[(a) FINDINGS.—Congress finds that—**

20 **[(1) the Final Report of the National**
21 **Commission on Terrorist Attacks Upon**
22 **the United States criticized the provision**
23 **of United States assistance to Afghani-**
24 **stan for being too inflexible; and**

1 **[(2) the Afghanistan Freedom Sup-**
2 **port Act of 2002 (Public Law 107-327; 22**
3 **U.S.C. 7501 et seq.) contains provisions**
4 **that provide for flexibility in the provi-**
5 **sion of assistance for Afghanistan and are**
6 **not subject to the requirements of typical**
7 **foreign assistance programs and provide**
8 **for the designation of a coordinator to**
9 **oversee United States assistance for Af-**
10 **ghanistan.**

11 **[(b) DESIGNATION OF COORDINATOR.—Sec-**
12 **tion 104(a) of the Afghanistan Freedom Sup-**
13 **port Act of 2002 (22 U.S.C. 7514(a)) is amended**
14 **in the matter preceding paragraph (1) by**
15 **striking “is strongly urged to” and inserting**
16 **“shall”.**

17 **[(c) OTHER MATTERS.—Section 104 of such**
18 **Act (22 U.S.C. 7514) is amended by adding at**
19 **the end the following:**

20 **[(“c) PROGRAM PLAN.—The coordinator**
21 **designated under subsection (a) shall annu-**
22 **ally submit to the Committees on Inter-**
23 **national Relations and Appropriations of the**
24 **House of Representatives and the Committees**
25 **on Foreign Relations and Appropriations of**

1 the Senate the Administration's plan for as-
2 sistance to Afghanistan together with a de-
3 scription of such assistance in prior years.

4 **[(d) COORDINATION WITH INTERNATIONAL**
5 **COMMUNITY.—The coordinator designated**
6 **under subsection (a) shall work with the**
7 **international community, including multilat-**
8 **eral organizations and international financial**
9 **institutions, and the Government of Afghani-**
10 **stan to ensure that assistance to Afghanistan**
11 **is implemented in a coherent, consistent, and**
12 **efficient manner to prevent duplication and**
13 **waste.”.**

14 **[SEC. 4063. GENERAL PROVISIONS RELATING TO THE AF-**
15 **GHANISTAN FREEDOM SUPPORT ACT OF 2002.**

16 **[(a) ASSISTANCE TO PROMOTE ECONOMIC,**
17 **POLITICAL AND SOCIAL DEVELOPMENT.—**

18 **[(1) DECLARATION OF POLICY.—Con-**
19 **gress reaffirms the authorities contained**
20 **in title I of the Afghanistan Freedom Sup-**
21 **port Act of 2002 (22 U.S.C. 7501 et seq.; re-**
22 **lating to economic and democratic devel-**
23 **opment assistance for Afghanistan).**

24 **[(2) PROVISION OF ASSISTANCE.—Sec-**
25 **tion 103(a) of such Act (22 U.S.C. 7513(a))**

1 is amended in the matter preceding para-
2 graph (1) by striking “section 512 of Pub-
3 lic Law 107–115 or any other similar” and
4 inserting “any other”.

5 **[(b) DECLARATIONS OF POLICY.—Congress**
6 **makes the following declarations:**

7 **[(1) The United States reaffirms the**
8 **support that it and other countries ex-**
9 **pressed for the report entitled “Securing**
10 **Afghanistan’s Future” in their Berlin**
11 **Declaration of April 2004. The United**
12 **States should help enable the growth**
13 **needed to create an economically sustain-**
14 **able Afghanistan capable of the poverty**
15 **reduction and social development fore-**
16 **seen in the report.**

17 **[(2) The United States supports the**
18 **parliamentary elections to be held in Af-**
19 **ghanistan by April 2005 and will help en-**
20 **sure that such elections are not under-**
21 **mined by warlords or narcotics traf-**
22 **fickers.**

23 **[(3)(A) The United States continues to**
24 **urge North Atlantic Treaty Organization**
25 **members and other friendly countries to**

1 **make much greater military contribu-**
2 **tions toward securing the peace in Af-**
3 **ghanistan.**

4 **[(B) The United States should con-**
5 **tinue to lead in the security domain by,**
6 **among other things, providing logistical**
7 **support to facilitate those contributions.**

8 **[(C) In coordination with the Govern-**
9 **ment of Afghanistan, the United States**
10 **should urge others, and act itself, to in-**
11 **crease efforts to promote disarmament,**
12 **demobilization, and reintegration efforts,**
13 **to enhance counternarcotics activities, to**
14 **expand deployments of Provincial Recon-**
15 **struction Teams, and to increase training**
16 **of Afghanistan's National Army and its**
17 **police and border security forces.**

18 **[(c) LONG-TERM STRATEGY.—**

19 **[(1) STRATEGY.—Title III of such Act**
20 **(22 U.S.C. 7551 et seq.) is amended by**
21 **adding at the end the following:**

22 **["SEC. 304 FORMULATION OF LONG-TERM STRATEGY FOR**
23 **AFGHANISTAN.**

24 **["(a) STRATEGY.—**

1 **[(1) IN GENERAL.—Not later than 180**
2 **days after the date of the enactment of**
3 **the Afghanistan Freedom Support Act**
4 **Amendments of 2004, the President shall**
5 **formulate and transmit to the Committee**
6 **on International Relations of the House**
7 **of Representatives and the Committee on**
8 **Foreign Relations of the Senate a 5-year**
9 **strategy for Afghanistan that includes**
10 **specific and measurable goals, time-**
11 **frames for accomplishing such goals, and**
12 **specific resource levels necessary for ac-**
13 **complishing such goals for addressing**
14 **the long-term development and security**
15 **needs of Afghanistan, including sectors**
16 **such as agriculture and irrigation, par-**
17 **liamentary and democratic development,**
18 **the judicial system and rule of law,**
19 **human rights, education, health, tele-**
20 **communications, electricity, women’s**
21 **rights, counternarcotics, police, border**
22 **security, anti-corruption, and other law-**
23 **enforcement activities.**

24 **[(2) ADDITIONAL REQUIREMENT.—The**
25 **strategy shall also delineate responsibil-**

1 ities for achieving such goals and identify
2 and address possible external factors that
3 could significantly affect the achievement
4 of such goals.

5 **[(“(b) IMPLEMENTATION.—Not later than 30**
6 **days after the date of the transmission of the**
7 **strategy required by subsection (a), the Sec-**
8 **retary of State, the Administrator of the**
9 **United States Agency for International Devel-**
10 **opment, and the Secretary of Defense shall**
11 **submit to the Committee on International Re-**
12 **lations of the House of Representatives and**
13 **the Committee on Foreign Relations of the**
14 **Senate a written 5-year action plan to imple-**
15 **ment the strategy developed pursuant to sub-**
16 **section (a). Such action plan shall include a**
17 **description and schedule of the program eval-**
18 **uations that will monitor progress toward**
19 **achieving the goals described in subsection**
20 **(a).**

21 **[(“(c) REVIEW.—The Secretary of State, the**
22 **Administrator of the United States Agency for**
23 **International Development, and the Secretary**
24 **of Defense shall carry out an annual review**

1 of the strategy required by subsection (a) and
2 the action plan required by subsection (b).

3 **[(“d) MONITORING.—The report required**
4 **by section 206(c)(2) of this Act shall include—**

5 **[(“(1) a description of progress toward**
6 **implementation of both the strategy re-**
7 **quired by subsection (a) and the action**
8 **plan required by subsection (b); and**

9 **[(“(2) a description of any changes to**
10 **the strategy or action plan since the date**
11 **of the submission of the last report re-**
12 **quired by such section.”.**

13 **[(2) CLERICAL AMENDMENT.—The table**
14 **of contents for such Act (22 U.S.C. 7501**
15 **note) is amended by adding after the**
16 **item relating to section 303 the following:**

[(“Sec. 304. Formulation of long-term strategy for Afghani-
stan.”.

17 **[SEC. 4064. RULE OF LAW AND RELATED ISSUES.**

18 **[Section 103(a)(5)(A) of the Afghanistan**
19 **Freedom Support Act of 2002 (22 U.S.C.**
20 **7513(a)(5)(A)) is amended—**

21 **[(1) in clause (v), to read as follows:**

22 **[(“v) support for the activities**
23 **of the Government of Afghanistan**
24 **to develop modern legal codes**

1 and court rules, to provide for the
2 creation of legal assistance pro-
3 grams, and other initiatives to
4 promote the rule of law in Af-
5 ghanistan;”;

6 [(2) in clause (xii), to read as follows:

7 [“(xii) support for the effec-
8 tive administration of justice at
9 the national, regional, and local
10 levels, including programs to im-
11 prove penal institutions and the
12 rehabilitation of prisoners, to es-
13 tablish a responsible and commu-
14 nity-based police force, and to re-
15 habilitate or construct court-
16 houses and detention facilities;”;
17 and

18 [(3) in clause (xiii), by striking “and”
19 at the end;

20 [(4) in clause (xiv), by striking the pe-
21 riod at the end and inserting “; and”; and

22 [(5) by adding at the end the fol-
23 lowing:

24 [“(xv) assistance for the pro-
25 tection of Afghanistan’s culture,

1 **history, and national identity, in-**
2 **cluding with the rehabilitation of**
3 **Afghanistan’s museums and sites**
4 **of cultural significance.”.**

5 **[SEC. 4065. MONITORING OF ASSISTANCE.**

6 **[Section 108 of the Afghanistan Freedom**
7 **Support Act of 2002 (22 U.S.C. 7518) is amend-**
8 **ed by adding at the end the following:**

9 **[“(c) MONITORING OF ASSISTANCE FOR AF-**
10 **GHANISTAN.—**

11 **[“(1) REPORT.—Not later than Janu-**
12 **ary 15, 2005, and every six months there-**
13 **after, the Secretary of State, in consulta-**
14 **tion with the Administrator for the**
15 **United States Agency for International**
16 **Development, shall submit to the Com-**
17 **mittee on International Relations of the**
18 **House of Representatives and the Com-**
19 **mittee on Foreign Relations of the Senate**
20 **a report on the obligations and expendi-**
21 **tures of United States assistance for Af-**
22 **ghanistan from all United States Govern-**
23 **ment agencies.**

24 **[“(2) SUBMISSION OF INFORMATION FOR**
25 **REPORT.—The head of each United States**

1 **Government agency referred to in para-**
2 **graph (1) shall provide on a timely basis**
3 **to the Secretary of State such informa-**
4 **tion as the Secretary may reasonably re-**
5 **quire to allow the Secretary to prepare**
6 **and submit the report required by such**
7 **paragraph.”.**

8 **[SEC. 4066. UNITED STATES POLICY TO SUPPORT DISAR-**
9 **MAMENT OF PRIVATE MILITIAS AND TO SUP-**
10 **PORT EXPANSION OF INTERNATIONAL**
11 **PEACEKEEPING AND SECURITY OPERATIONS**
12 **IN AFGHANISTAN.**

13 **[(a) DISARMAMENT OF PRIVATE MILITIAS.—**
14 **Section 103 of the Afghanistan Freedom Sup-**
15 **port Act of 2002 (22 U.S.C. 7513) is amended**
16 **by adding at the end the following:**

17 **[(“(d) UNITED STATES POLICY RELATING TO**
18 **DISARMAMENT OF PRIVATE MILITIAS.—**

19 **[(“(1) IN GENERAL.—It shall be the pol-**
20 **icy of the United States to take imme-**
21 **diat steps to provide active support for**
22 **the disarmament, demobilization, and re-**
23 **integration of armed soldiers, particu-**
24 **larly child soldiers, in Afghanistan, in**

1 **close consultation with the President of**
2 **Afghanistan.**

3 **[(2) REPORT.—The report required**
4 **by section 206(c)(2) of this Act shall in-**
5 **clude a description of the progress to im-**
6 **plement paragraph (1).”.**

7 **[(b) INTERNATIONAL PEACEKEEPING AND SE-**
8 **curity OPERATIONS.—Section 103 of such Act**
9 **(22 U.S.C. 7513(d)), as amended by subsection**
10 **(a), is further amended by adding at the end**
11 **the following:**

12 **[(“e) UNITED STATES POLICY RELATING TO**
13 **INTERNATIONAL PEACEKEEPING AND SECURITY**
14 **OPERATIONS.—It shall be the policy of the**
15 **United States to make every effort to support**
16 **the expansion of international peacekeeping**
17 **and security operations in Afghanistan in**
18 **order to—**

19 **[(“(1) increase the area in which secu-**
20 **rity is provided and undertake vital tasks**
21 **related to promoting security, such as**
22 **disarming warlords, militias, and**
23 **irregulars, and disrupting opium produc-**
24 **tion; and**

1 **[(2) safeguard highways in order to**
2 **allow the free flow of commerce and to**
3 **allow material assistance to the people of**
4 **Afghanistan, and aid personnel in Af-**
5 **ghanistan, to move more freely.”.**

6 **[SEC. 4067. EFFORTS TO EXPAND INTERNATIONAL PEACE-**
7 **KEEPING AND SECURITY OPERATIONS IN AF-**
8 **GHANISTAN.**

9 **[Section 206(d)(1) of the Afghanistan**
10 **Freedom Support Act of 2002 (22 U.S.C.**
11 **7536(d)(1)) is amended to read as follows:**

12 **[(1) EFFORTS TO EXPAND INTER-**
13 **NATIONAL PEACEKEEPING AND SECURITY OP-**
14 **ERATIONS IN AFGHANISTAN.—**

15 **[(A) EFFORTS.—The President**
16 **shall encourage, and, as authorized**
17 **by law, enable other countries to ac-**
18 **tively participate in expanded inter-**
19 **national peacekeeping and security**
20 **operations in Afghanistan, especially**
21 **through the provision of military per-**
22 **sonnel for extended periods of time.**

23 **[(B) REPORTS.—The President**
24 **shall prepare and transmit to the**
25 **Committee on International Relations**

1 of the House of Representatives and
2 the Committee on Foreign Relations
3 of the Senate a report on efforts car-
4 ried out pursuant to subparagraph
5 (A). The first report under this sub-
6 paragraph shall be transmitted not
7 later than 60 days after the date of
8 the enactment of the Afghanistan
9 Freedom Support Act Amendments of
10 2004 and subsequent reports shall be
11 transmitted every six months there-
12 after and may be included in the re-
13 port required by section 206(c)(2) of
14 this Act.”.

15 [SEC. 4068. PROVISIONS RELATING TO counternarcotics EF-
16 FORTS IN AFGHANISTAN.

17 [(a) COUNTERNARCOTICS EFFORTS.—The Af-
18 ghanistan Freedom Support Act of 2002 (22
19 U.S.C. 7501 et seq.) is amended—

20 [(1) by redesignating—

21 [(A) title III as title IV; and

22 [(B) sections 301 through 304 as
23 sections 401 through 404, respec-
24 tively; and

1 **[(2) by inserting after title II the fol-**
2 **lowing:**

3 **["TITLE III—PROVISIONS RELAT-**
4 **ING TO counternarcotics EF-**
5 **FORTS IN AFGHANISTAN**

6 **["SEC. 301. ASSISTANCE FOR counternarcotics EFFORTS.**

7 **["In addition to programs established**
8 **pursuant to section 103(a)(3) of this Act or**
9 **other similar programs, the President is au-**
10 **thorized and encouraged to implement spe-**
11 **cific initiatives to assist in the eradication of**
12 **poppy cultivation and the disruption of her-**
13 **oin production in Afghanistan, such as—**

14 **["(1) promoting alternatives to poppy**
15 **cultivation, including the introduction of**
16 **high value crops that are suitable for ex-**
17 **port and the provision of appropriate**
18 **technical assistance and credit mecha-**
19 **nisms for farmers;**

20 **["(2) enhancing the ability of farmers**
21 **to bring legitimate agricultural goods to**
22 **market;**

23 **["(3) notwithstanding section 660 of**
24 **the Foreign Assistance Act of 1961 (22**
25 **U.S.C. 2420), assistance, including non-**

1 lethal equipment, training (including
2 training in internationally recognized
3 standards of human rights, the rule of
4 law, anti-corruption, and the promotion
5 of civilian police roles that support de-
6 mocracy), and payments, during fiscal
7 years 2006 through 2008, for salaries for
8 special counternarcotics police and sup-
9 porting units;

10 ["(4) training the Afghan National
11 Army in counternarcotics activities; and

12 ["(5) creating special counter-
13 narcotics courts, prosecutors, and places
14 of incarceration."].

15 **[(b) CLERICAL AMENDMENTS.—**The table of
16 contents for such Act (22 U.S.C. 7501 note) is
17 amended—

18 **[(1) by redesignating—**

19 **[(A) the item relating to title III**
20 **as the item relating to title IV; and**

21 **[(B) the items relating to sections**
22 **301 through 304 as the items relating**
23 **to sections 401 through 404; and**

24 **[(2) by inserting after the items relat-**
25 **ing to title II the following:**

**["TITLE III—PROVISIONS RELATING TO COUNTERNARCOTICS
EFFORTS IN AFGHANISTAN**

["Sec. 301. Assistance for counternarcotics efforts.".

1 **[SEC. 4069. ADDITIONAL AMENDMENTS TO THE AFGHANI-**
2 **STAN FREEDOM SUPPORT ACT OF 2002.**

3 **[(a) TECHNICAL AMENDMENT.—Section**
4 **103(a)(7)(A)(xii) of the Afghanistan Freedom**
5 **Support Act of 2002 (22 U.S.C.**
6 **7513(a)(7)(A)(xii)) is amended by striking “Na-**
7 **tional” and inserting “Afghan Independent”.**

8 **[(b) REPORTING REQUIREMENT.—Section**
9 **206(c)(2) of such Act (22 U.S.C. 7536(c)(2)) is**
10 **amended in the matter preceding subpara-**
11 **graph (A) by striking “2007” and inserting**
12 **“2012”.**

13 **[SEC. 4070. REPEAL.**

14 **[Section 620D of the Foreign Assistance**
15 **Act of 1961 (22 U.S.C. 2374; relating to prohibi-**
16 **tion on assistance to Afghanistan) is hereby**
17 **repealed.**

18 **[Subtitle E—Provisions Relating to**
19 **Saudi Arabia and Pakistan**

20 **[SEC. 4081. NEW UNITED STATES STRATEGY FOR RELA-**
21 **TIONSHIP WITH SAUDI ARABIA.**

22 **[(a) SENSE OF CONGRESS.—It is the sense of**
23 **Congress that the relationship between the**

1 United States and Saudi Arabia should in-
2 clude a more robust dialogue between the
3 people and Government of the United States
4 and the people and Government of Saudi Ara-
5 bia in order to provide for a reevaluation of,
6 and improvements to, the relationship by
7 both sides.

8 [(b) REPORT.—

9 [(1) IN GENERAL.— Not later than one
10 year after the date of the enactment of
11 this Act, the President shall transmit to
12 the Committee on International Relations
13 of the House of Representatives and the
14 Committee on Foreign Relations of the
15 Senate a strategy for collaboration with
16 the people and Government of Saudi Ara-
17 bia on subjects of mutual interest and im-
18 portance to the United States.

19 [(2) CONTENTS.—The strategy re-
20 quired under paragraph (1) shall include
21 the following provisions:

22 [(A) A framework for security co-
23 operation in the fight against ter-
24 rorism, with special reference to com-
25 bating terrorist financing and an ex-

3 **[(B) A framework for political**
4 **and economic reform in Saudi Arabia**
5 **and throughout the Middle East.**

6 **[(C) An examination of steps that**
7 **should be taken to reverse the trend**
8 **toward extremism in Saudi Arabia**
9 **and other Muslim countries and**
10 **throughout the Middle East.**

11 **[(D) A framework for promoting**
12 **greater tolerance and respect for cul-**
13 **tural and religious diversity in Saudi**
14 **Arabia and throughout the Middle**
15 **East.**

16 [SEC. 4082. UNITED STATES COMMITMENT TO THE FUTURE
17 OF PAKISTAN.

18 **[(a) SENSE OF CONGRESS.—It is the sense of**
19 **Congress that the United States should, over**
20 **a long-term period, help to ensure a prom-**
21 **ising, stable, and secure future for Pakistan,**
22 **and should in particular provide assistance to**
23 **encourage and enable Pakistan—**

24 **[(1) to continue and improve upon its**
25 **commitment to combating extremists;**

1 **[(2) to seek to resolve any out-**
2 **standing difficulties with its neighbors**
3 **and other countries in its region;**

4 **[(3) to continue to make efforts to**
5 **fully control its territory and borders;**

6 **[(4) to progress towards becoming a**
7 **more effective and participatory democ-**
8 **racy;**

9 **[(5) to participate more vigorously in**
10 **the global marketplace and to continue to**
11 **modernize its economy;**

12 **[(6) to take all necessary steps to halt**
13 **the spread of weapons of mass destruc-**
14 **tion;**

15 **[(7) to continue to reform its edu-**
16 **cation system; and**

17 **[(8) to, in other ways, implement a**
18 **general strategy of moderation.**

19 **[(b) STRATEGY.—Not later than 180 days**
20 **after the date of the enactment of this Act, the**
21 **President shall transmit to Congress a de-**
22 **tailed proposed strategy for the future, long-**
23 **term, engagement of the United States with**
24 **Pakistan.**

1 [SEC. 4083. EXTENSION OF PAKISTAN WAIVERS.

2 [The Act entitled “An Act to authorize the
3 President to exercise waivers of foreign as-
4 sistance restrictions with respect to Pakistan
5 through September 30, 2003, and for other
6 purposes”, approved October 27, 2001 (Public
7 Law 107–57; 115 Stat. 403), as amended by sec-
8 tion 2213 of the Emergency Supplemental Ap-
9 propriations Act for Defense and for the Re-
10 construction of Iraq and Afghanistan, 2004
11 (Public Law 108–106; 117 Stat. 1232), is further
12 amended—

13 [(1) in section 1(b)—

14 [(A) in the heading, by striking
15 “FISCAL YEAR 2004” and inserting
16 “FISCAL YEARS 2005 AND 2006”; and

17 [(B) in paragraph (1), by striking
18 “2004” and inserting “2005 or 2006”;

19 [(2) in section 3(2), by striking “and
20 2004,” and inserting “2004, 2005, and
21 2006”; and

22 [(3) in section 6, by striking “2004”
23 and inserting “2006”.

1 **[Subtitle F—Oversight Provisions**

2 **[SEC. 4091. CASE-ZABLOCKI ACT REQUIREMENTS.**

3 **[(a) AVAILABILITY OF TREATIES AND INTER-**
4 **NATIONAL AGREEMENTS.—Section 112a of title**
5 **1, United States Code, is amended by adding**
6 **at the end the following:**

7 **[“(d) The Secretary of State shall cause to**
8 **be published in slip form or otherwise made**
9 **publicly available through the Internet**
10 **website of the Department of State each trea-**
11 **ty or international agreement proposed to be**
12 **published in the compilation entitled ‘United**
13 **States Treaties and Other International**
14 **Agreements’ not later than 180 days after the**
15 **date on which the treaty or agreement enters**
16 **into force.”.**

17 **[(b) TRANSMISSION TO CONGRESS.—Section**
18 **112b(a) of title 1, United States Code (com-**
19 **monly referred to as the “Case-Zablocki Act”),**
20 **is amended—**

21 **[(1) in the first sentence, by striking**
22 **“has entered into force” and inserting**
23 **“has been signed or entered into force”;**
24 **and**

1 **[(2) in the second sentence, by strik-**
2 **ing “Committee on Foreign Affairs” and**
3 **inserting “Committee on International**
4 **Relations”.**

5 **[(c) REPORT.—Section 112b of title 1,**
6 **United States Code, is amended—**

7 **[(1) by redesignating subsections (d)**
8 **and (e) as subsections (e) and (f), respec-**
9 **tively; and**

10 **[(2) by inserting after subsection (c)**
11 **the following:**

12 **[(“d)(1) The Secretary of State shall sub-**
13 **mit to Congress on an annual basis a report**
14 **that contains an index of all international**
15 **agreements (including oral agreements), list-**
16 **ed by country, date, title, and summary of**
17 **each such agreement (including a description**
18 **of the duration of activities under the agree-**
19 **ment and the agreement itself), that the**
20 **United States—**

21 **[(“A) has signed, proclaimed, or with**
22 **reference to which any other final for-**
23 **mality has been executed, or that has**
24 **been extended or otherwise modified,**
25 **during the preceding calendar year; and**

1 **[(“B) has not been published, or is**
2 **not proposed to be published, in the com-**
3 **pilation entitled ‘United States Treaties**
4 **and Other International Agreements’.**

5 **[(“(2) The report described in paragraph**
6 **(1) may be submitted in classified form.”.**

7 **[(d) DETERMINATION OF INTERNATIONAL**
8 **AGREEMENT.—Subsection (e) of section 112b of**
9 **title 1, United States Code, (as redesignated)**
10 **is amended—**

11 **[(1) by striking “(e) The Secretary of**
12 **State” and inserting “(e)(1) Subject to**
13 **paragraph (2), the Secretary of State”;**
14 **and**

15 **[(2) by adding at the end the fol-**
16 **lowing:**

17 **[(“(2)(A) An arrangement shall constitute**
18 **an international agreement within the mean-**
19 **ing of this section (other than subsection (c)**
20 **of this section) irrespective of the duration of**
21 **activities under the arrangement or the ar-**
22 **rangement itself.**

23 **[(“B) Arrangements that constitute an**
24 **international agreement within the meaning**
25 **of this section (other than subsection (c) of**

1 this section) include, but are not limited to,
2 the following:

3 **[(i) A bilateral or multilateral**
4 **counterterrorism agreement.**

5 **[(ii) A bilateral agreement with a**
6 **country that is subject to a determination**
7 **under section 6(j)(1)(A) of the Export Ad-**
8 **ministration Act of 1979 (50 U.S.C. App.**
9 **2405(j)(1)(A)), section 620A(a) of the For-**
10 **eign Assistance Act of 1961 (22 U.S.C.**
11 **2371(a)), or section 40(d) of the Arms Ex-**
12 **port Control Act (22 U.S.C. 2780(d)).”.**

13 **[(e) ENFORCEMENT OF REQUIREMENTS.—**
14 **Section 139(b) of the Foreign Relations Au-**
15 **thorization Act, Fiscal Years 1988 and 1989 is**
16 **amended to read as follows:**

17 **[(b) EFFECTIVE DATE.—Subsection (a)**
18 **shall take effect 60 days after the date of the**
19 **enactment of the 9/11 Recommendations Im-**
20 **plementation Act and shall apply during fis-**
21 **cal years 2005, 2006, and 2007.”.**

1 **[Subtitle G—Additional Protec-**
2 **tions of United States Aviation**
3 **System from Terrorist Attacks**

4 **[SEC. 4101. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**
5 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**
6 **DECK OFFICERS.**

7 **[The President is encouraged to pursue**
8 **aggressively international agreements with**
9 **foreign governments to allow the maximum**
10 **deployment of Federal air marshals and Fed-**
11 **eral flight deck officers on international**
12 **flights.**

13 **[SEC. 4102. FEDERAL AIR MARSHAL TRAINING.**

14 **[Section 44917 of title 49, United States**
15 **Code, is amended by adding at the end the fol-**
16 **lowing:**

17 **[“(d) TRAINING FOR FOREIGN LAW ENFORCE-**
18 **MENT PERSONNEL.—**

19 **[“(1) IN GENERAL.—The Assistant Sec-**
20 **retary for Immigration and Customs En-**
21 **forcement of the Department of Home-**
22 **land Security, after consultation with the**
23 **Secretary of State, may direct the Fed-**
24 **eral Air Marshal Service to provide ap-**

1 appropriate air marshal training to law en-
2 forcement personnel of foreign countries.

3 **[(2) WATCHLIST SCREENING.—The Fed-**
4 **eral Air Marshal Service may only pro-**
5 **vide appropriate air marshal training to**
6 **law enforcement personnel of foreign**
7 **countries after comparing the identifying**
8 **information and records of law enforce-**
9 **ment personnel of foreign countries**
10 **against appropriate records in the con-**
11 **solidated and integrated terrorist**
12 **watchlists of the Federal Government.**

13 **[(3) FEES.—The Assistant Secretary**
14 **shall establish reasonable fees and**
15 **charges to pay expenses incurred in car-**
16 **rying out this subsection. Funds collected**
17 **under this subsection shall be credited to**
18 **the account in the Treasury from which**
19 **the expenses were incurred and shall be**
20 **available to the Assistant Secretary for**
21 **purposes for which amounts in such ac-**
22 **count are available.”.**

1 [SEC. 4103. MAN-PORTABLE AIR DEFENSE SYSTEMS
2 (MANPADS).

3 [(a) UNITED STATES POLICY ON NON-
4 PROLIFERATION AND EXPORT CONTROL.—

5 [(1) TO LIMIT AVAILABILITY AND TRANS-
6 FER OF MANPADS.—The President shall
7 pursue, on an urgent basis, further
8 strong international diplomatic and coop-
9 erative efforts, including bilateral and
10 multilateral treaties, in the appropriate
11 forum to limit the availability, transfer,
12 and proliferation of MANPADSs world-
13 wide.

14 [(2) TO LIMIT THE PROLIFERATION OF
15 MANPADS.—The President is encouraged
16 to seek to enter into agreements with the
17 governments of foreign countries that, at
18 a minimum, would—

19 [(A) prohibit the entry into force
20 of a MANPADS manufacturing license
21 agreement and MANPADS co-produc-
22 tion agreement, other than the entry
23 into force of a manufacturing license
24 or co-production agreement with a
25 country that is party to such an
26 agreement;

1 **[(B) prohibit, except pursuant to**
2 **transfers between governments, the**
3 **export of a MANPADS, including any**
4 **component, part, accessory, or attach-**
5 **ment thereof, without an individual**
6 **validated license; and**

7 **[(C) prohibit the reexport or re-**
8 **transfer of a MANPADS, including**
9 **any component, part, accessory, or at-**
10 **achment thereof, to a third person,**
11 **organization, or government unless**
12 **the written consent of the govern-**
13 **ment that approved the original ex-**
14 **port or transfer is first obtained.**

15 **[(3) TO ACHIEVE DESTRUCTION OF**
16 **MANPADS.—The President should continue**
17 **to pursue further strong international**
18 **diplomatic and cooperative efforts, in-**
19 **cluding bilateral and multilateral trea-**
20 **ties, in the appropriate forum to assure**
21 **the destruction of excess, obsolete, and il-**
22 **licit stocks of MANPADSs worldwide.**

23 **[(4) REPORTING AND BRIEFING REQUIRE-**
24 **MENT.—**

1 **[(A) PRESIDENT’S REPORT.—Not**
2 **later than 180 days after the date of**
3 **enactment of this Act, the President**
4 **shall transmit to the appropriate con-**
5 **gressional committees a report that**
6 **contains a detailed description of the**
7 **status of diplomatic efforts under**
8 **paragraphs (1), (2), and (3) and of ef-**
9 **forts by the appropriate United**
10 **States agencies to comply with the**
11 **recommendations of the General Ac-**
12 **counting Office set forth in its report**
13 **GAO-04-519, entitled “Nonprolifera-**
14 **tion: Further Improvements Needed**
15 **in U.S. Efforts to Counter Threats**
16 **from Man-Portable Air Defense Sys-**
17 **tems”.**

18 **[(B) ANNUAL BRIEFINGS.—Annually**
19 **after the date of submission of the re-**
20 **port under subparagraph (A) and**
21 **until completion of the diplomatic**
22 **and compliance efforts referred to in**
23 **subparagraph (A), the Secretary of**
24 **State shall brief the appropriate con-**

1 gressional committees on the status
2 of such efforts.

3 **[(b) FAA AIRWORTHINESS CERTIFICATION OF**
4 **MISSILE DEFENSE SYSTEMS FOR COMMERCIAL**
5 **AIRCRAFT.—**

6 **[(1) IN GENERAL.—As soon as prac-**
7 **ticable, but not later than the date of**
8 **completion of Phase II of the Department**
9 **of Homeland Security’s counter-man-**
10 **portable air defense system (MANPADS)**
11 **development and demonstration pro-**
12 **gram, the Administrator of the Federal**
13 **Aviation Administration shall establish a**
14 **process for conducting airworthiness and**
15 **safety certification of missile defense sys-**
16 **tems for commercial aircraft certified as**
17 **effective and functional by the Depart-**
18 **ment of Homeland Security. The process**
19 **shall require a certification by the Ad-**
20 **ministrator that such systems can be**
21 **safely integrated into aircraft systems**
22 **and ensure airworthiness and aircraft**
23 **system integrity.**

24 **[(2) CERTIFICATION ACCEPTANCE.—**
25 **Under the process, the Administrator**

1 shall accept the certification of the De-
2 partment of Homeland Security that a
3 missile defense system is effective and
4 functional to defend commercial aircraft
5 against MANPADSs.

6 [(3) EXPEDITIOUS CERTIFICATION.—
7 Under the process, the Administrator
8 shall expedite the airworthiness and safe-
9 ty certification of missile defense systems
10 for commercial aircraft certified by the
11 Department of Homeland Security.

12 [(4) REPORTS.—Not later than 90 days
13 after the first airworthiness and safety
14 certification for a missile defense system
15 for commercial aircraft is issued by the
16 Administrator, and annually thereafter
17 until December 31, 2008, the Federal
18 Aviation Administration shall transmit to
19 the Committee on Transportation and In-
20 frastructure of the House of Representa-
21 tives and the Committee on Commerce,
22 Science, and Transportation of the Sen-
23 ate a report that contains a detailed de-
24 scription of each airworthiness and safe-

1 **ty certification issued for a missile de-**
2 **fense system for commercial aircraft.**

3 **[(c) PROGRAMS TO REDUCE MANPADS.—**

4 **[(1) IN GENERAL.—The President is en-**
5 **couraged to pursue strong programs to**
6 **reduce the number of MANPADSs world-**
7 **wide so that fewer MANPADSs will be**
8 **available for trade, proliferation, and**
9 **sale.**

10 **[(2) REPORTING AND BRIEFING REQUIRE-**
11 **MENTS.—Not later than 180 days after the**
12 **date of enactment of this Act, the Presi-**
13 **dent shall transmit to the appropriate**
14 **congressional committees a report that**
15 **contains a detailed description of the sta-**
16 **tus of the programs being pursued under**
17 **subsection (a). Annually thereafter until**
18 **the programs are no longer needed, the**
19 **Secretary of State shall brief the appro-**
20 **priate congressional committees on the**
21 **status of programs.**

22 **[(3) FUNDING.—There are authorized**
23 **to be appropriated such sums as may be**
24 **necessary to carry out this section.**

1 **[(d) MANPADS VULNERABILITY ASSESS-**
2 **MENTS REPORT.—**

3 **[(1) IN GENERAL.—Not later than one**
4 **year after the date of enactment of this**
5 **Act, the Secretary of Homeland Security**
6 **shall transmit to the Committee on**
7 **Transportation and Infrastructure of the**
8 **House of Representatives and the Com-**
9 **mittee on Commerce, Science, and Trans-**
10 **portation of the Senate a report describ-**
11 **ing the Department of Homeland Secu-**
12 **riety’s plans to secure airports and the air-**
13 **craft arriving and departing from air-**
14 **ports against MANPADSs attacks.**

15 **[(2) MATTERS TO BE ADDRESSED.—The**
16 **Secretary’s report shall address, at a min-**
17 **imum, the following:**

18 **[(A) The status of the Depart-**
19 **ment’s efforts to conduct MANPADSs**
20 **vulnerability assessments at United**
21 **States airports at which the Depart-**
22 **ment is conducting assessments.**

23 **[(B) How intelligence is shared**
24 **between the United States intel-**
25 **ligence agencies and Federal, State,**

1 and local law enforcement to address
2 the MANPADS threat and potential
3 ways to improve such intelligence
4 sharing.

5 [(C) Contingency plans that the
6 Department has developed in the
7 event that it receives intelligence in-
8 dicating a high threat of a MANPADS
9 attack on aircraft at or near United
10 States airports.

11 [(D) The feasibility and effective-
12 ness of implementing public edu-
13 cation and neighborhood watch pro-
14 grams in areas surrounding United
15 States airports in cases in which in-
16 telligence reports indicate there is a
17 high risk of MANPADS attacks on air-
18 craft.

19 [(E) Any other issues that the
20 Secretary deems relevant.

21 [(3) FORMAT.—The report required by
22 this subsection may be submitted in a
23 classified format.

24 [(e) DEFINITIONS.—In this section, the fol-
25 lowing definitions apply:

1 **[(1) APPROPRIATE CONGRESSIONAL COM-**
2 **MITTEES.—The term “appropriate congres-**
3 **sional committees” means—**

4 **[(A) the Committee on Armed**
5 **Services, the Committee on Inter-**
6 **national Relations, and the Com-**
7 **mittee on Transportation and Infra-**
8 **structure of the House of Representa-**
9 **tives; and**

10 **[(B) the Committee on Armed**
11 **Services, the Committee on Foreign**
12 **Relations, and the Committee on**
13 **Commerce, Science, and Transpor-**
14 **tation of the Senate.**

15 **[(2) MANPADS.—The term**
16 **“MANPADS” means—**

17 **[(A) a surface-to-air missile sys-**
18 **tem designed to be man-portable and**
19 **carried and fired by a single indi-**
20 **vidual; and**

21 **[(B) any other surface-to-air mis-**
22 **sile system designed to be operated**
23 **and fired by more than one indi-**
24 **vidual acting as a crew and portable**
25 **by several individuals.**

1 **[Subtitle H—Improving Inter-**
2 **national Standards and Co-**
3 **operation to Fight Terrorist Fi-**
4 **nancing**

5 **[SEC. 4111. SENSE OF THE CONGRESS REGARDING SUC-**
6 **CESS IN MULTILATERAL ORGANIZATIONS.**

7 **[(a) COMMENDATION.—The Congress com-**
8 **mends the Secretary of the Treasury for suc-**
9 **cess and leadership in establishing inter-**
10 **national standards for fighting terrorist fi-**
11 **nance through multilateral organizations, in-**
12 **cluding the Financial Action Task Force**
13 **(FATF) at the Organization for Economic Co-**
14 **operation and Development, the International**
15 **Monetary Fund, the International Bank for**
16 **Reconstruction and Development, and the re-**
17 **gional multilateral development banks.**

18 **[(b) POLICY GUIDANCE.—The Congress en-**
19 **courages the Secretary of the Treasury to di-**
20 **rect the United States Executive Director at**
21 **each international financial institution to use**
22 **the voice and vote of the United States to urge**
23 **the institution, and encourages the Secretary**
24 **of the Treasury to use the voice and vote of**

1 the United States in other multilateral finan-
2 cial policymaking bodies, to—

3 [(1) provide funding for the imple-
4 mentation of FATF anti-money laun-
5 dering and anti-terrorist financing stand-
6 ards; and

7 [(2) promote economic development
8 in the Middle East.

9 [SEC. 4112. EXPANDED REPORTING REQUIREMENT FOR
10 THE SECRETARY OF THE TREASURY.

11 [(a) IN GENERAL.—Section 1701(b) of the
12 International Financial Institutions Act (22
13 U.S.C. 262r(b)) is amended—

14 [(1) by striking “and” at the end of
15 paragraph (10); and

16 [(2) by redesignating paragraph (11)
17 as paragraph (12) and inserting after
18 paragraph (10) the following:

19 [“(11) an assessment of—

20 [“(A) the progress made by the
21 International Terrorist Finance Co-
22 ordinating Council in developing
23 policies to be pursued with the inter-
24 national financial institutions and
25 other multilateral financial policy-

1 making bodies regarding anti-ter-
2 rorist financing initiatives;

3 [(B) the progress made by the
4 United States in negotiations with the
5 international financial institutions
6 and other multilateral financial pol-
7 icymaking bodies to set common anti-
8 terrorist financing standards;

9 [(C) the extent to which the
10 international financial institutions
11 and other multilateral financial pol-
12 icymaking bodies have adopted anti-
13 terrorist financing standards advo-
14 cated by the United States; and

15 [(D) whether and how the inter-
16 national financial institutions are
17 contributing to the fight against the
18 financing of terrorist activities; and”.

19 [(b) OTHER MULTILATERAL POLICYMAKING
20 BODIES DEFINED.—Section 1701(c) of such Act
21 (22 U.S.C. 262r(c)) is amended by adding at
22 the end the following:

23 [(5) OTHER MULTILATERAL FINANCIAL
24 POLICYMAKING BODIES.—The term ‘other

1 **multilateral financial policymaking bod-**
2 **ies’ means—**

3 **[(A) the Financial Action Task**
4 **Force at the Organization for Eco-**
5 **nomic Cooperation and Development;**

6 **[(B) the international network of**
7 **financial intelligence units known as**
8 **the ‘Egmont Group’;**

9 **[(C) the United States, Canada,**
10 **the United Kingdom, France, Ger-**
11 **many, Italy, Japan, and Russia, when**
12 **meeting as the Group of Eight; and**

13 **[(D) any other multilateral finan-**
14 **cial policymaking group in which the**
15 **Secretary of the Treasury represents**
16 **the United States.”.**

17 **[SEC. 4113. INTERNATIONAL TERRORIST FINANCE COORDI-**
18 **NATING COUNCIL.**

19 **[(a) ESTABLISHMENT.—The Secretary of the**
20 **Treasury shall establish and convene an**
21 **interagency council, to be known as the**
22 **“International Terrorist Finance Coordi-**
23 **nating Council” (in this section referred to as**
24 **the “Council”), which shall advise the Sec-**
25 **retary on policies to be pursued by the United**

1 States at meetings of the international finan-
2 cial institutions and other multilateral finan-
3 cial policymaking bodies, regarding the devel-
4 opment of international anti-terrorist financ-
5 ing standards.

6 [(b) MEETINGS.—

7 [(1) ATTENDEES.—

8 [(A) GENERAL ATTENDEES.—The
9 Secretary of the Treasury (or a rep-
10 resentative of the Secretary of the
11 Treasury) and the Secretary of State
12 (or a representative of the Secretary
13 of State) shall attend each Council
14 meeting.

15 [(B) OTHER ATTENDEES.—The Sec-
16 retary of the Treasury shall deter-
17 mine which other officers of the Fed-
18 eral Government shall attend a Coun-
19 cil meeting, on the basis of the issues
20 to be raised for consideration at the
21 meeting. The Secretary shall include
22 in the meeting representatives from
23 all relevant Federal agencies with au-
24 thority to address the issues.

1 **[(2) SCHEDULE.—Not less frequently**
2 **than annually, the Secretary of the Treas-**
3 **ury shall convene Council meetings at**
4 **such times as the Secretary deems appro-**
5 **priate, based on the notice, schedule, and**
6 **agenda items of the international finan-**
7 **cial institutions and other multilateral fi-**
8 **nancial policymaking bodies.**

9 **[SEC. 4114. DEFINITIONS.**

10 **[In this subtitle:**

11 **[(1) INTERNATIONAL FINANCIAL INSTITU-**
12 **TIONS.—The term “international financial**
13 **institutions” has the meaning given in**
14 **section 1701(c)(2) of the International Fi-**
15 **nancial Institutions Act.**

16 **[(2) OTHER MULTILATERAL FINANCIAL**
17 **POLICYMAKING BODIES.—The term “other**
18 **multilateral financial policymaking bod-**
19 **ies” means—**

20 **[(A) the Financial Action Task**
21 **Force at the Organization for Eco-**
22 **nomic Cooperation and Development;**

23 **[(B) the international network of**
24 **financial intelligence units known as**
25 **the “Egmont Group”;**

1 **[(C) the United States, Canada,**
2 **the United Kingdom, France, Ger-**
3 **many, Italy, Japan, and Russia, when**
4 **meeting as the Group of Eight; and**

5 **[(D) any other multilateral finan-**
6 **cial policymaking group in which the**
7 **Secretary of the Treasury represents**
8 **the United States.**

9 **[TITLE V—GOVERNMENT**
10 **RESTRUCTURING**

11 **[Subtitle A—Faster and Smarter**
12 **Funding for First Responders**

13 **[SEC. 5001. SHORT TITLE.**

14 **[This subtitle may be cited as the “Faster**
15 **and Smarter Funding for First Responders**
16 **Act of 2004”.**

17 **[SEC. 5002. FINDINGS.**

18 **[The Congress finds the following:**

19 **[(1) In order to achieve its objective**
20 **of minimizing the damage, and assisting**
21 **in the recovery, from terrorist attacks,**
22 **the Department of Homeland Security**
23 **must play a leading role in assisting com-**
24 **munities to reach the level of prepared-**

1 **ness they need to respond to a terrorist**
2 **attack.**

3 **[(2) First responder funding is not**
4 **reaching the men and women of our Na-**
5 **tion's first response teams quickly**
6 **enough, and sometimes not at all.**

7 **[(3) To reform the current bureau-**
8 **cratic process so that homeland security**
9 **dollars reach the first responders who**
10 **need it most, it is necessary to clarify and**
11 **consolidate the authority and procedures**
12 **of the Department of Homeland Security**
13 **that support first responders.**

14 **[(4) Ensuring adequate resources for**
15 **the new national mission of homeland se-**
16 **curity, without degrading the ability to**
17 **address effectively other types of major**
18 **disasters and emergencies, requires a dis-**
19 **crete and separate grant making process**
20 **for homeland security funds for first re-**
21 **sponse to terrorist acts, on the one hand,**
22 **and for first responder programs de-**
23 **signed to meet pre-September 11 prior-**
24 **ities, on the other.**

1 **[(5) While a discrete homeland secu-**
2 **rity grant making process is necessary to**
3 **ensure proper focus on the unique as-**
4 **pects of terrorism prevention, prepared-**
5 **ness, and response, it is essential that**
6 **State and local strategies for utilizing**
7 **such grants be integrated, to the greatest**
8 **extent practicable, with existing State**
9 **and local emergency management plans.**

10 **[(6) Homeland security grants to first**
11 **responders must be based on the best in-**
12 **telligence concerning the capabilities and**
13 **intentions of our terrorist enemies, and**
14 **that intelligence must be used to target**
15 **resources to the Nation's greatest threats,**
16 **vulnerabilities, and consequences.**

17 **[(7) The Nation's first response capa-**
18 **bilities will be improved by sharing re-**
19 **sources, training, planning, personnel,**
20 **and equipment among neighboring juris-**
21 **dictions through mutual aid agreements**
22 **and regional cooperation. Such regional**
23 **cooperation should be supported, where**
24 **appropriate, through direct grants from**
25 **the Department of Homeland Security.**

1 **[(8) An essential prerequisite to**
2 **achieving the Nation's homeland security**
3 **objectives for first responders is the es-**
4 **tablishment of well-defined national**
5 **goals for terrorism preparedness. These**
6 **goals should delineate the essential capa-**
7 **bilities that every jurisdiction in the**
8 **United States should possess or to which**
9 **it should have access.**

10 **[(9) A national determination of es-**
11 **sentia l capabilities is needed to identify**
12 **levels of State and local government ter-**
13 **rorism preparedness, to determine the**
14 **nature and extent of State and local first**
15 **responder needs, to identify the human**
16 **and financial resources required to fulfill**
17 **them, and to direct funding to meet those**
18 **needs and to measure preparedness lev-**
19 **els on a national scale.**

20 **[(10) To facilitate progress in achiev-**
21 **ing, maintaining, and enhancing essential**
22 **capabilities for State and local first re-**
23 **sponders, the Department of Homeland**
24 **Security should seek to allocate home-**

1 **land security funding for first responders**
2 **to meet nationwide needs.**

3 **[(11) Private sector resources and cit-**
4 **izen volunteers can perform critical func-**
5 **tions in assisting in preventing and re-**
6 **sponding to terrorist attacks, and should**
7 **be integrated into State and local plan-**
8 **ning efforts to ensure that their capabili-**
9 **ties and roles are understood, so as to**
10 **provide enhanced State and local oper-**
11 **ational capability and surge capacity.**

12 **[(12) Public-private partnerships,**
13 **such as the partnerships between the**
14 **Business Executives for National Secu-**
15 **rity and the States of New Jersey and**
16 **Georgia, can be useful to identify and co-**
17 **ordinate private sector support for State**
18 **and local first responders. Such models**
19 **should be expanded to cover all States**
20 **and territories.**

21 **[(13) An important aspect of essential**
22 **capabilities is measurability, so that it is**
23 **possible to determine how prepared a**
24 **State or local government is now, and**

1 **what additional steps it needs to take, in**
 2 **order to respond to acts of terrorism.**

3 **[(14) The Department of Homeland**
 4 **Security should establish, publish, and**
 5 **regularly update national voluntary con-**
 6 **sensus standards for both equipment and**
 7 **training, in cooperation with both public**
 8 **and private sector standard setting orga-**
 9 **nizations, to assist State and local gov-**
 10 **ernments in obtaining the equipment and**
 11 **training to attain the essential capabili-**
 12 **ties for first response to acts of terrorism,**
 13 **and to ensure that first responder funds**
 14 **are spent wisely.**

15 **[SEC. 5003. FASTER AND SMARTER FUNDING FOR FIRST**
 16 **RESPONDERS.**

17 **[(a) IN GENERAL.—The Homeland Security**
 18 **Act of 2002 (Public Law 107–296; 6 U.S.C. 361**
 19 **et seq.) is amended—**

20 **[(1) in section 1(b) in the table of con-**
 21 **tents by adding at the end the following:**

["TITLE XVIII—FUNDING FOR FIRST RESPONDERS

["Sec. 1801. Definitions.

["Sec. 1802. Faster and smarter funding for first respond-
 ers.

["Sec. 1803. Essential capabilities for first responders.

["Sec. 1804. Task Force on Essential Capabilities for First
 Responders.

["Sec. 1805. Covered grant eligibility and criteria.

["Sec. 1806. Use of funds and accountability requirements.
["Sec. 1807. National standards for first responder equipment and training.";

1 **[and**

2 **[(2) by adding at the end the fol-**
3 **lowing:**

4 **["TITLE XVIII—FUNDING FOR**
5 **FIRST RESPONDERS**

6 **["SEC. 1801. DEFINITIONS.**

7 **["In this title:**

8 **["(1) BOARD.—The term ‘Board’ means**
9 **the First Responder Grants Board estab-**
10 **lished under section 1805(f).**

11 **["(2) COVERED GRANT.—The term ‘cov-**
12 **ered grant’ means any grant to which**
13 **this title applies under section 1802.**

14 **["(3) DIRECTLY ELIGIBLE TRIBE.—The**
15 **term ‘directly eligible tribe’ means any**
16 **Indian tribe or consortium of Indian**
17 **tribes that—**

18 **["(A) meets the criteria for inclu-**
19 **sion in the qualified applicant pool**
20 **for Self-Governance that are set forth**
21 **in section 402(c) of the Indian Self-**
22 **Determination and Education Assist-**
23 **ance Act (25 U.S.C. 458bb(c));**

1 **[(B) employs at least 10 full-time**
2 **personnel in a law enforcement or**
3 **emergency response agency with the**
4 **capacity to respond to calls for law**
5 **enforcement or emergency services;**
6 **and**

7 **[(C)(i) is located on, or within 5**
8 **miles of, an international border or**
9 **waterway;**

10 **[(ii) is located within 5 miles of a**
11 **facility within a critical infrastruc-**
12 **ture sector identified in section**
13 **1803(c)(2);**

14 **[(iii) is located within or contig-**
15 **uous to one of the 50 largest metro-**
16 **politan statistical areas in the United**
17 **States; or**

18 **[(iv) has more than 1,000 square**
19 **miles of Indian country, as that term**
20 **is defined in section 1151 of title 18,**
21 **United States Code.**

22 **[(4) ELEVATIONS IN THE THREAT ALERT**
23 **LEVEL.—The term ‘elevations in the threat**
24 **alert level’ means any designation (in-**
25 **cluding those that are less than national**

1 in scope) that raises the homeland secu-
2 rity threat level to either the highest or
3 second highest threat level under the
4 Homeland Security Advisory System re-
5 ferred to in section 201(d)(7).

6 **[(“(5) EMERGENCY PREPAREDNESS.—The**
7 **term ‘emergency preparedness’ shall have**
8 **the same meaning that term has under**
9 **section 602 of the Robert T. Stafford Dis-**
10 **aster Relief and Emergency Assistance**
11 **Act (42 U.S.C. 5195a).**

12 **[(“(6) ESSENTIAL CAPABILITIES.—The**
13 **term ‘essential capabilities’ means the**
14 **levels, availability, and competence of**
15 **emergency personnel, planning, training,**
16 **and equipment across a variety of dis-**
17 **ciplines needed to effectively and effi-**
18 **ciently prevent, prepare for, and respond**
19 **to acts of terrorism consistent with estab-**
20 **lished practices.**

21 **[(“(7) FIRST RESPONDER.—The term**
22 **‘first responder’ shall have the same**
23 **meaning as the term ‘emergency response**
24 **provider’.**

1 **[(8) INDIAN TRIBE.—The term ‘Indian**
2 **tribe’ means any Indian tribe, band, na-**
3 **tion, or other organized group or commu-**
4 **nity, including any Alaskan Native village**
5 **or regional or village corporation as de-**
6 **fin ed in or established pursuant to the**
7 **Alaskan Native Claims Settlement Act (43**
8 **U.S.C. 1601 et seq.), which is recognized**
9 **as eligible for the special programs and**
10 **services provided by the United States to**
11 **Indians because of their status as Indi-**
12 **ans.**

13 **[(9) REGION.—The term ‘region’**
14 **means—**

15 **[(A) any geographic area con-**
16 **sisting of all or parts of 2 or more**
17 **contiguous States, counties, munici-**
18 **palities, or other local governments**
19 **that have a combined population of**
20 **at least 1,650,000 or have an area of**
21 **not less than 20,000 square miles, and**
22 **that, for purposes of an application**
23 **for a covered grant, is represented by**
24 **1 or more governments or govern-**
25 **mental agencies within such geo-**

1 graphic area, and that is established
2 by law or by agreement of 2 or more
3 such governments or governmental
4 agencies in a mutual aid agreement;
5 or

6 [“(B) any other combination of
7 contiguous local government units
8 (including such a combination estab-
9 lished by law or agreement of two or
10 more governments or governmental
11 agencies in a mutual aid agreement)
12 that is formally certified by the Sec-
13 retary as a region for purposes of this
14 Act with the consent of—

15 [“(i) the State or States in
16 which they are located, including
17 a multi-State entity established
18 by a compact between two or
19 more States; and

20 [“(ii) the incorporated mu-
21 nicipalities, counties, and par-
22 ishes that they encompass.

23 [“(10) TASK FORCE.—The term ‘Task
24 Force’ means the Task Force on Essential

1 **Capabilities for First Responders estab-**
2 **lished under section 1804.**

3 **["SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST**
4 **RESPONDERS.**

5 **["(a) COVERED GRANTS.—This title applies**
6 **to grants provided by the Department to**
7 **States, regions, or directly eligible tribes for**
8 **the primary purpose of improving the ability**
9 **of first responders to prevent, prepare for, re-**
10 **spond to, or mitigate threatened or actual ter-**
11 **rorist attacks, especially those involving**
12 **weapons of mass destruction, administered**
13 **under the following:**

14 **["(1) STATE HOMELAND SECURITY GRANT**
15 **PROGRAM.—The State Homeland Security**
16 **Grant Program of the Department, or any**
17 **successor to such grant program.**

18 **["(2) URBAN AREA SECURITY INITIA-**
19 **TIVE.—The Urban Area Security Initiative**
20 **of the Department, or any successor to**
21 **such grant program.**

22 **["(3) LAW ENFORCEMENT TERRORISM**
23 **PREVENTION PROGRAM.—The Law Enforce-**
24 **ment Terrorism Prevention Program of**

1 the Department, or any successor to such
2 grant program.

3 **[(4) CITIZEN CORPS PROGRAM.—The**
4 **Citizen Corps Program of the Depart-**
5 **ment, or any successor to such grant pro-**
6 **gram.**

7 **[(b) EXCLUDED PROGRAMS.—This title**
8 **does not apply to or otherwise affect the fol-**
9 **lowing Federal grant programs or any grant**
10 **under such a program:**

11 **[(1) NONDEPARTMENT PROGRAMS.—**
12 **Any Federal grant program that is not**
13 **administered by the Department.**

14 **[(2) FIRE GRANT PROGRAMS.—The fire**
15 **grant programs authorized by sections 33**
16 **and 34 of the Federal Fire Prevention**
17 **and Control Act of 1974 (15 U.S.C. 2229,**
18 **2229a).**

19 **[(3) EMERGENCY MANAGEMENT PLAN-**
20 **NING AND ASSISTANCE ACCOUNT GRANTS.—**
21 **The Emergency Management Perform-**
22 **ance Grant program and the Urban**
23 **Search and Rescue Grants program au-**
24 **thorized by title VI of the Robert T. Staf-**
25 **ford Disaster Relief and Emergency As-**

10 **["(a) ESTABLISHMENT OF ESSENTIAL CAPA-**
11 **BILITIES.—**

12 **[(“)(1) IN GENERAL.—For purposes of**
13 **covered grants, the Secretary shall estab-**
14 **lish clearly defined essential capabilities**
15 **for State and local government prepared-**
16 **ness for terrorism, in consultation with—**

17 **[(A) the Task Force on Essential**
18 **Capabilities for First Responders es-**
19 **tablished under section 1804;**

20 **[(B) the Under Secretaries for**
21 **Emergency Preparedness and Re-**
22 **sponse, Border and Transportation**
23 **Security, Information Analysis and**
24 **Infrastructure Protection, and**
25 **Science and Technology, and the Di-**

1 **rector of the Office for Domestic Pre-**
2 **paredness;**

3 **[(C) the Secretary of Health and**
4 **Human Services;**

5 **[(D) other appropriate Federal**
6 **agencies;**

7 **[(E) State and local first re-**
8 **sponder agencies and officials; and**

9 **[(F) consensus-based standard**
10 **making organizations responsible for**
11 **setting standards relevant to the first**
12 **responder community.**

13 **[(2) DEADLINES.—The Secretary**
14 **shall—**

15 **[(A) establish essential capabili-**
16 **ties under paragraph (1) within 30**
17 **days after receipt of the report under**
18 **section 1804(b); and**

19 **[(B) regularly update such essen-**
20 **tial capabilities as necessary, but not**
21 **less than every 3 years.**

22 **[(3) PROVISION OF ESSENTIAL CAPABILI-**
23 **TIES.—The Secretary shall ensure that a**
24 **detailed description of the essential capa-**
25 **bilities established under paragraph (1)**

1 is provided promptly to the States and to
2 the Congress. The States shall make the
3 essential capabilities available as nec-
4 essary and appropriate to local govern-
5 ments within their jurisdictions.

6 **[(b) OBJECTIVES.—The Secretary shall en-**
7 **sure that essential capabilities established**
8 **under subsection (a)(1) meet the following ob-**
9 **jectives:**

10 **[(1) SPECIFICITY.—The determination**
11 **of essential capabilities specifically shall**
12 **describe the training, planning, per-**
13 **sonnel, and equipment that different**
14 **types of communities in the Nation**
15 **should possess, or to which they should**
16 **have access, in order to meet the Depart-**
17 **ment’s goals for terrorism preparedness**
18 **based upon—**

19 **[(A) the most current risk assess-**
20 **ment available by the Directorate for**
21 **Information Analysis and Infrastruc-**
22 **ture Protection of the threats of ter-**
23 **rorism against the United States;**

24 **[(B) the types of threats,**
25 **vulnerabilities, geography, size, and**

1 other factors that the Secretary has
2 determined to be applicable to each
3 different type of community; and

4 [“(C) the principles of regional
5 coordination and mutual aid among
6 State and local governments.

7 [“(2) FLEXIBILITY.—The establishment
8 of essential capabilities shall be suffi-
9 ciently flexible to allow State and local
10 government officials to set priorities
11 based on particular needs, while reach-
12 ing nationally determined terrorism pre-
13 paredness levels within a specified time
14 period.

15 [“(3) MEASURABILITY.—The establish-
16 ment of essential capabilities shall be de-
17 signed to enable measurement of
18 progress towards specific terrorism pre-
19 paredness goals.

20 [“(4) COMPREHENSIVENESS.—The deter-
21 mination of essential capabilities for ter-
22 rorism preparedness shall be made with-
23 in the context of a comprehensive State
24 emergency management system.

25 [“(c) FACTORS TO BE CONSIDERED.—

1 **[(1) IN GENERAL.—In establishing es-**
2 **sential capabilities under subsection**
3 **(a)(1), the Secretary specifically shall con-**
4 **sider the variables of threat, vulner-**
5 **ability, and consequences with respect to**
6 **the Nation’s population (including tran-**
7 **sient commuting and tourist populations)**
8 **and critical infrastructure. Such consid-**
9 **eration shall be based upon the most cur-**
10 **rent risk assessment available by the Di-**
11 **rectorate for Information Analysis and**
12 **Infrastructure Protection of the threats**
13 **of terrorism against the United States.**

14 **[(2) CRITICAL INFRASTRUCTURE SEC-**
15 **TORS.—The Secretary specifically shall**
16 **consider threats of terrorism against the**
17 **following critical infrastructure sectors**
18 **in all areas of the Nation, urban and**
19 **rural:**

20 **[(A) Agriculture.**

21 **[(B) Banking and finance.**

22 **[(C) Chemical industries.**

23 **[(D) The defense industrial base.**

24 **[(E) Emergency services.**

25 **[(F) Energy.**

1 **[(G) Food.**

2 **[(H) Government.**

3 **[(I) Postal and shipping.**

4 **[(J) Public health.**

5 **[(K) Information and tele-**
6 **communications networks.**

7 **[(L) Transportation.**

8 **[(M) Water.**

9 **The order in which the critical infra-**
10 **structure sectors are listed in this para-**
11 **graph shall not be construed as an order**
12 **of priority for consideration of the impor-**
13 **tance of such sectors.**

14 **[(3) TYPES OF THREAT.—The Sec-**
15 **retary specifically shall consider the fol-**
16 **lowing types of threat to the critical in-**
17 **frastructure sectors described in para-**
18 **graph (2), and to populations in all areas**
19 **of the Nation, urban and rural:**

20 **[(A) Biological threats.**

21 **[(B) Nuclear threats.**

22 **[(C) Radiological threats.**

23 **[(D) Incendiary threats.**

24 **[(E) Chemical threats.**

25 **[(F) Explosives.**

1 **[(G) Suicide bombers.**

2 **[(H) Cyber threats.**

3 **[(I) Any other threats based on**
4 **proximity to specific past acts of ter-**
5 **rorism or the known activity of any**
6 **terrorist group.**

7 **The order in which the types of threat**
8 **are listed in this paragraph shall not be**
9 **construed as an order of priority for con-**
10 **sideration of the importance of such**
11 **threats.**

12 **[(4) CONSIDERATION OF ADDITIONAL**
13 **FACTORS.—In establishing essential capa-**
14 **bilities under subsection (a)(1), the Sec-**
15 **retary shall take into account any other**
16 **specific threat to a population (including**
17 **a transient commuting or tourist popu-**
18 **lation) or critical infrastructure sector**
19 **that the Secretary has determined to**
20 **exist.**

21 **["SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES**
22 **FOR FIRST RESPONDERS.**

23 **[(a) ESTABLISHMENT.—To assist the Sec-**
24 **retary in establishing essential capabilities**
25 **under section 1803(a)(1), the Secretary shall**

1 establish an advisory body pursuant to sec-
2 tion 871(a) not later than 60 days after the
3 date of the enactment of this section, which
4 shall be known as the Task Force on Essential
5 Capabilities for First Responders.

6 **[(b) REPORT.—**

7 **[(1) IN GENERAL.—The Task Force**
8 **shall submit to the Secretary, not later**
9 **than 9 months after its establishment by**
10 **the Secretary under subsection (a) and**
11 **every 3 years thereafter, a report on its**
12 **recommendations for essential capabili-**
13 **ties for preparedness for terrorism.**

14 **[(2) CONTENTS.—The report shall—**

15 **[(A) include a priority ranking of**
16 **essential capabilities in order to pro-**
17 **vide guidance to the Secretary and to**
18 **the Congress on determining the ap-**
19 **propriate allocation of, and funding**
20 **levels for, first responder needs;**

21 **[(B) set forth a methodology by**
22 **which any State or local government**
23 **will be able to determine the extent**
24 **to which it possesses or has access to**
25 **the essential capabilities that States**

1 **and local governments having similar**
2 **risks should obtain;**

3 **[(C) describe the availability of**
4 **national voluntary consensus stand-**
5 **ards, and whether there is a need for**
6 **new national voluntary consensus**
7 **standards, with respect to first re-**
8 **sponder training and equipment;**

9 **[(D) include such additional mat-**
10 **ters as the Secretary may specify in**
11 **order to further the terrorism pre-**
12 **paredness capabilities of first re-**
13 **sponders; and**

14 **[(E) include such revisions to the**
15 **contents of past reports as are nec-**
16 **essary to take into account changes**
17 **in the most current risk assessment**
18 **available by the Directorate for Infor-**
19 **mation Analysis and Infrastructure**
20 **Protection or other relevant informa-**
21 **tion as determined by the Secretary.**

22 **[(3) CONSISTENCY WITH FEDERAL**
23 **WORKING GROUP.—The Task Force shall**
24 **ensure that its recommendations for es-**
25 **sential capabilities are, to the extent fea-**

1 sible, consistent with any preparedness
2 goals or recommendations of the Federal
3 working group established under section
4 319F(a) of the Public Health Service Act
5 (42 U.S.C. 247d–6(a)).

6 **[(4) COMPREHENSIVENESS.—The Task**
7 **Force shall ensure that its recommenda-**
8 **tions regarding essential capabilities for**
9 **terrorism preparedness are made within**
10 **the context of a comprehensive State**
11 **emergency management system.**

12 **[(5) PRIOR MEASURES.—The Task**
13 **Force shall ensure that its recommenda-**
14 **tions regarding essential capabilities for**
15 **terrorism preparedness take into account**
16 **any capabilities that State or local offi-**
17 **cials have determined to be essential and**
18 **have undertaken since September 11,**
19 **2001, to prevent or prepare for terrorist**
20 **attacks.**

21 **[(c) MEMBERSHIP.—**

22 **[(1) IN GENERAL.—The Task Force**
23 **shall consist of 25 members appointed by**
24 **the Secretary, and shall, to the extent**
25 **practicable, represent a geographic and**

1 **substantive cross section of governmental**
2 **and nongovernmental first responder dis-**
3 **ciplines from the State and local levels,**
4 **including as appropriate—**

5 **[(A) members selected from the**
6 **emergency response field, including**
7 **fire service and law enforcement,**
8 **hazardous materials response, emer-**
9 **gency medical services, and emer-**
10 **gency management personnel (includ-**
11 **ing public works personnel routinely**
12 **engaged in emergency response);**

13 **[(B) health scientists, emergency**
14 **and inpatient medical providers, and**
15 **public health professionals, including**
16 **experts in emergency health care re-**
17 **sponse to chemical, biological, radio-**
18 **logical, and nuclear terrorism, and**
19 **experts in providing mental health**
20 **care during emergency response op-**
21 **erations;**

22 **[(C) experts from Federal, State,**
23 **and local governments, and the pri-**
24 **vate sector, representing standards-**
25 **setting organizations, including rep-**

1 resentation from the voluntary con-
2 sensus codes and standards develop-
3 ment community, particularly those
4 with expertise in first responder dis-
5 ciplines; and

6 [“(D) State and local officials with
7 expertise in terrorism preparedness,
8 subject to the condition that if any
9 such official is an elected official rep-
10 resenting one of the two major polit-
11 ical parties, an equal number of elect-
12 ed officials shall be selected from
13 each such party.

14 [“(2) COORDINATION WITH THE DEPART-
15 MENT OF HEALTH AND HEALTH SERVICES.—In
16 the selection of members of the Task
17 Force who are health professionals, in-
18 cluding emergency medical professionals,
19 the Secretary shall coordinate the selec-
20 tion with the Secretary of Health and
21 Human Services.

22 [“(3) EX OFFICIO MEMBERS.—The Sec-
23 retary and the Secretary of Health and
24 Human Services shall each designate one
25 or more officers of their respective De-

1 partments to serve as ex officio members
2 of the Task Force. One of the ex officio
3 members from the Department of Home-
4 land Security shall be the designated offi-
5 cer of the Federal Government for pur-
6 poses of subsection (e) of section 10 of the
7 Federal Advisory Committee Act (5 App.
8 U.S.C.).

9 **[(d) APPLICABILITY OF FEDERAL ADVISORY**
10 **COMMITTEE ACT.—**Notwithstanding section
11 871(a), the Federal Advisory Committee Act (5
12 U.S.C. App.), including subsections (a), (b),
13 and (d) of section 10 of such Act, and section
14 552b(c) of title 5, United States Code, shall
15 apply to the Task Force.

16 **["SEC. 1805. COVERED GRANT ELIGIBILITY AND CRITERIA.**

17 **[(a) GRANT ELIGIBILITY.—**Any State, re-
18 gion, or directly eligible tribe shall be eligible
19 to apply for a covered grant.

20 **[(b) GRANT CRITERIA.—**In awarding cov-
21 ered grants, the Secretary shall assist States
22 and local governments in achieving, main-
23 taining, and enhancing the essential capabili-
24 ties for first responders established by the
25 Secretary under section 1803.

1 **[(c) STATE HOMELAND SECURITY PLANS.—**

2 **[(1) SUBMISSION OF PLANS.—The Sec-**
3 **retary shall require that any State apply-**
4 **ing to the Secretary for a covered grant**
5 **must submit to the Secretary a 3-year**
6 **State homeland security plan that—**

7 **[(A) demonstrates the extent to**
8 **which the State has achieved the es-**
9 **sential capabilities that apply to the**
10 **State;**

11 **[(B) demonstrates the needs of**
12 **the State necessary to achieve, main-**
13 **tain, or enhance the essential capa-**
14 **bilities that apply to the State;**

15 **[(C) includes a prioritization of**
16 **such needs based on threat, vulner-**
17 **ability, and consequence assessment**
18 **factors applicable to the State;**

19 **[(D) describes how the State in-**
20 **tends—**

21 **[(i) to address such needs at**
22 **the city, county, regional, tribal,**
23 **State, and interstate level, includ-**
24 **ing a precise description of any**
25 **regional structure the State has**

1 **established for the purpose of or-**
2 **ganizing homeland security pre-**
3 **paredness activities funded by**
4 **covered grants;**

5 **[(“ii) to use all Federal, State,**
6 **and local resources available for**
7 **the purpose of addressing such**
8 **needs; and**

9 **[(“iii) to give particular em-**
10 **phasis to regional planning and**
11 **cooperation, including the activi-**
12 **ties of multijurisdictional plan-**
13 **ning agencies governed by local**
14 **officials, both within its jurisdic-**
15 **tional borders and with neigh-**
16 **boring States;**

17 **[(“E) is developed in consultation**
18 **with and subject to appropriate com-**
19 **ment by local governments within the**
20 **State; and**

21 **[(“F) with respect to the emer-**
22 **gency preparedness of first respond-**
23 **ers, addresses the unique aspects of**
24 **terrorism as part of a comprehensive**
25 **State emergency management plan.**

1 **[(2) APPROVAL BY SECRETARY.—The**
2 **Secretary may not award any covered**
3 **grant to a State unless the Secretary has**
4 **approved the applicable State homeland**
5 **security plan.**

6 **[(d) CONSISTENCY WITH STATE PLANS.—**
7 **The Secretary shall ensure that each covered**
8 **grant is used to supplement and support, in**
9 **a consistent and coordinated manner, the ap-**
10 **plicable State homeland security plan or**
11 **plans.**

12 **[(e) APPLICATION FOR GRANT.—**

13 **[(1) IN GENERAL.—Except as other-**
14 **wise provided in this subsection, any**
15 **State, region, or directly eligible tribe**
16 **may apply for a covered grant by submit-**
17 **ting to the Secretary an application at**
18 **such time, in such manner, and con-**
19 **taining such information as is required**
20 **under this subsection, or as the Secretary**
21 **may reasonably require.**

22 **[(2) DEADLINES FOR APPLICATIONS AND**
23 **AWARDS.—All applications for covered**
24 **grants must be submitted at such time as**
25 **the Secretary may reasonably require for**

1 the fiscal year for which they are sub-
2 mitted. The Secretary shall award cov-
3 ered grants pursuant to all approved ap-
4 plications for such fiscal year as soon as
5 practicable, but not later than March 1 of
6 such year.

7 **[(3) AVAILABILITY OF FUNDS.—All**
8 **funds awarded by the Secretary under**
9 **covered grants in a fiscal year shall be**
10 **available for obligation through the end**
11 **of the subsequent fiscal year.**

12 **[(4) MINIMUM CONTENTS OF APPLICA-**
13 **TION.—The Secretary shall require that**
14 **each applicant include in its application,**
15 **at a minimum—**

16 **[(A) the purpose for which the**
17 **applicant seeks covered grant funds**
18 **and the reasons why the applicant**
19 **needs the covered grant to meet the**
20 **essential capabilities for terrorism**
21 **preparedness within the State, re-**
22 **gion, or directly eligible tribe to**
23 **which the application pertains;**

24 **[(B) a description of how, by ref-**
25 **erence to the applicable State home-**

1 land security plan or plans under
2 subsection (c), the allocation of grant
3 funding proposed in the application,
4 including, where applicable, the
5 amount not passed through under
6 section 1806(g)(1), would assist in ful-
7 filling the essential capabilities speci-
8 fied in such plan or plans;

9 [(C) a statement of whether a
10 mutual aid agreement applies to the
11 use of all or any portion of the cov-
12 ered grant funds;

13 [(D) if the applicant is a State, a
14 description of how the State plans to
15 allocate the covered grant funds to
16 regions, local governments, and In-
17 dian tribes;

18 [(E) if the applicant is a region—

19 [(i) a precise geographical
20 description of the region and a
21 specification of all participating
22 and nonparticipating local gov-
23 ernments within the geographical
24 area comprising that region;

1 **[(“ii) a specification of what**
2 **governmental entity within the**
3 **region will administer the ex-**
4 **penditure of funds under the cov-**
5 **ered grant; and**

6 **[(“iii) a designation of a spe-**
7 **cific individual to serve as re-**
8 **gional liaison;**

9 **[(“F) a capital budget showing**
10 **how the applicant intends to allocate**
11 **and expend the covered grant funds;**

12 **[(“G) if the applicant is a directly**
13 **eligible tribe, a designation of a spe-**
14 **cific individual to serve as the tribal**
15 **liaison; and**

16 **[(“H) a statement of how the ap-**
17 **plicant intends to meet the matching**
18 **requirement, if any, that applies**
19 **under section 1806(g)(2).**

20 **[(“5) REGIONAL APPLICATIONS.—**

21 **[(“A) RELATIONSHIP TO STATE AP-**
22 **PLICATIONS.—A regional application—**

23 **[(“i) shall be coordinated with**
24 **an application submitted by the**

1 **State or States of which such re-**
2 **gion is a part;**

3 **[(“ii) shall supplement and**
4 **avoid duplication with such State**
5 **application; and**

6 **[(“iii) shall address the**
7 **unique regional aspects of such**
8 **region’s terrorism preparedness**
9 **needs beyond those provided for**
10 **in the application of such State or**
11 **States.**

12 **[(“B) STATE REVIEW AND SUBMIS-**
13 **SION.—To ensure the consistency re-**
14 **quired under subsection (d) and the**
15 **coordination required under subpara-**
16 **graph (A) of this paragraph, an appli-**
17 **cant that is a region must submit its**
18 **application to each State of which**
19 **any part is included in the region for**
20 **review and concurrence prior to the**
21 **submission of such application to the**
22 **Secretary. The regional application**
23 **shall be transmitted to the Secretary**
24 **through each such State within 30**
25 **days of its receipt, unless the Gov-**

ernor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

["(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: *Provided*, That in no such case shall the State or States pass through

1 to the region less than 80 percent of
2 the regional award.

3 **[(D) CERTIFICATIONS REGARDING**
4 **DISTRIBUTION OF GRANT FUNDS TO RE-**
5 **GIONS.—Any State that receives a re-**
6 **gional award under subparagraph (C)**
7 **shall certify to the Secretary, by not**
8 **later than 30 days after the expira-**
9 **tion of the period described in sub-**
10 **paragraph (C) with respect to the**
11 **grant, that the State has made avail-**
12 **able to the region the required funds**
13 **and resources in accordance with**
14 **subparagraph (C).**

15 **[(E) DIRECT PAYMENTS TO RE-**
16 **GIONS.—If any State fails to pass**
17 **through a regional award to a region**
18 **as required by subparagraph (C)**
19 **within 45 days after receiving such**
20 **award and does not request or re-**
21 **ceive an extension of such period**
22 **under section 1806(h)(2), the region**
23 **may petition the Secretary to receive**
24 **directly the portion of the regional**
25 **award that is required to be passed**

1 through to such region under sub-
2 paragraph (C).

3 [(F) REGIONAL LIAISONS.—A re-
4 gional liaison designated under para-
5 graph (4)(E)(iii) shall—

6 [(i) coordinate with Federal,
7 State, local, regional, and private
8 officials within the region con-
9 cerning terrorism preparedness;

10 [(ii) develop a process for re-
11 ceiving input from Federal, State,
12 local, regional, and private sector
13 officials within the region to as-
14 sist in the development of the re-
15 gional application and to improve
16 the region's access to covered
17 grants; and

18 [(iii) administer, in consulta-
19 tion with State, local, regional,
20 and private officials within the
21 region, covered grants awarded
22 to the region.

23 [(6) TRIBAL APPLICATIONS.—

24 [(A) SUBMISSION TO THE STATE OR
25 STATES.—To ensure the consistency

1 required under subsection (d), an ap-
2 plicant that is a directly eligible tribe
3 must submit its application to each
4 State within the boundaries of which
5 any part of such tribe is located for
6 direct submission to the Department
7 along with the application of such
8 State or States.

9 **[(B) OPPORTUNITY FOR STATE COM-**
10 **MENT.—**Before awarding any covered
11 grant to a directly eligible tribe, the
12 Secretary shall provide an oppor-
13 tunity to each State within the
14 boundaries of which any part of such
15 tribe is located to comment to the
16 Secretary on the consistency of the
17 tribe’s application with the State’s
18 homeland security plan. Any such
19 comments shall be submitted to the
20 Secretary concurrently with the sub-
21 mission of the State and tribal appli-
22 cations.

23 **[(C) FINAL AUTHORITY.—**The Sec-
24 retary shall have final authority to
25 determine the consistency of any ap-

1 plication of a directly eligible tribe
2 with the applicable State homeland
3 security plan or plans, and to ap-
4 prove any application of such tribe.
5 The Secretary shall notify each State
6 within the boundaries of which any
7 part of such tribe is located of the ap-
8 proval of an application by such
9 tribe.

10 [“(D) TRIBAL LIAISON.—A tribal li-
11 aision designated under paragraph
12 (4)(G) shall—

13 [“(i) coordinate with Federal,
14 State, local, regional, and private
15 officials concerning terrorism
16 preparedness;

17 [“(ii) develop a process for re-
18 ceiving input from Federal, State,
19 local, regional, and private sector
20 officials to assist in the develop-
21 ment of the application of such
22 tribe and to improve the tribe’s
23 access to covered grants; and

24 [“(iii) administer, in consulta-
25 tion with State, local, regional,

1 and private officials, covered
2 grants awarded to such tribe.

3 **[(E) LIMITATION ON THE NUMBER**
4 **OF DIRECT GRANTS.—The Secretary**
5 **may make covered grants directly to**
6 **not more than 20 directly eligible**
7 **tribes per fiscal year.**

8 **[(F) TRIBES NOT RECEIVING DIRECT**
9 **GRANTS.—An Indian tribe that does**
10 **not receive a grant directly under**
11 **this section is eligible to receive**
12 **funds under a covered grant from the**
13 **State or States within the boundaries**
14 **of which any part of such tribe is lo-**
15 **cated, consistent with the homeland**
16 **security plan of the State as de-**
17 **scribed in subsection (c). If a State**
18 **fails to comply with section**
19 **1806(g)(1), the tribe may request pay-**
20 **ment under section 1806(h)(3) in the**
21 **same manner as a local government.**

22 **[(7) EQUIPMENT STANDARDS.—If an ap-**
23 **plicant for a covered grant proposes to**
24 **upgrade or purchase, with assistance**
25 **provided under the grant, new equip-**

1 ment or systems that do not meet or ex-
2 ceed any applicable national voluntary
3 consensus standards established by the
4 Secretary under section 1807(a), the ap-
5 plicant shall include in the application an
6 explanation of why such equipment or
7 systems will serve the needs of the appli-
8 cant better than equipment or systems
9 that meet or exceed such standards.

10 **[(f) FIRST RESPONDER GRANTS BOARD.—**

11 **[(1) ESTABLISHMENT OF BOARD.—The**
12 **Secretary shall establish a First Re-**
13 **sponder Grants Board, consisting of—**

14 **[(A) the Secretary;**

15 **[(B) the Under Secretary for**
16 **Emergency Preparedness and Re-**
17 **sponse;**

18 **[(C) the Under Secretary for**
19 **Border and Transportation Security;**

20 **[(D) the Under Secretary for In-**
21 **formation Analysis and Infrastruc-**
22 **ture Protection;**

23 **[(E) the Under Secretary for**
24 **Science and Technology; and**

1 **[(F) the Director of the Office for**
2 **Domestic Preparedness.**

3 **[(2) CHAIRMAN.—**

4 **[(A) IN GENERAL.—The Secretary**
5 **shall be the Chairman of the Board.**

6 **[(B) EXERCISE OF AUTHORITIES BY**
7 **DEPUTY SECRETARY.—The Deputy Sec-**
8 **retary of Homeland Security may ex-**
9 **ercise the authorities of the Chair-**
10 **man, if the Secretary so directs.**

11 **[(3) RANKING OF GRANT APPLICA-**
12 **TIONS.—**

13 **[(A) PRIORITIZATION OF GRANTS.—**
14 **The Board—**

15 **[(i) shall evaluate and annu-**
16 **ally prioritize all pending applica-**
17 **tions for covered grants based**
18 **upon the degree to which they**
19 **would, by achieving, maintaining,**
20 **or enhancing the essential capa-**
21 **bilities of the applicants on a na-**
22 **tionwide basis, lessen the threat**
23 **to, vulnerability of, and con-**
24 **sequences for persons and critical**
25 **infrastructure; and**

1 **[(“ii) in evaluating the threat**
2 **to persons and critical infrastruc-**
3 **ture for purposes of prioritizing**
4 **covered grants, shall give greater**
5 **weight to threats of terrorism**
6 **based on their specificity and**
7 **credibility, including any pattern**
8 **of repetition.**

9 **[(“B) MINIMUM AMOUNTS.—After**
10 **evaluating and prioritizing grant ap-**
11 **plications under subparagraph (A),**
12 **the Board shall ensure that, for each**
13 **fiscal year—**

14 **[(“i) each of the States, other**
15 **than the Virgin Islands, American**
16 **Samoa, Guam, and the Northern**
17 **Mariana Islands, that has an ap-**
18 **proved State homeland security**
19 **plan receives no less than 0.25**
20 **percent of the funds available for**
21 **covered grants for that fiscal year**
22 **for purposes of implementing its**
23 **homeland security plan in accord-**
24 **ance with the prioritization of**
25 **needs under subsection (c)(1)(C);**

1 **[(“ii) each of the States, other**
2 **than the Virgin Islands, American**
3 **Samoa, Guam, and the Northern**
4 **Mariana Islands, that has an ap-**
5 **proved State homeland security**
6 **plan and that meets one or both**
7 **of the additional high-risk quali-**
8 **ifying criteria under subpara-**
9 **graph (C) receives no less than**
10 **0.45 percent of the funds available**
11 **for covered grants for that fiscal**
12 **year for purposes of imple-**
13 **menting its homeland security**
14 **plan in accordance with the**
15 **prioritization of needs under sub-**
16 **section (c)(1)(C);**

17 **[(“iii) the Virgin Islands,**
18 **American Samoa, Guam, and the**
19 **Northern Mariana Islands each**
20 **receives no less than 0.08 percent**
21 **of the funds available for covered**
22 **grants for that fiscal year for pur-**
23 **poses of implementing its ap-**
24 **proved State homeland security**
25 **plan in accordance with the**

1 **prioritization of needs under sub-**
2 **section (c)(1)(C); and**

3 **[(“iv) directly eligible tribes**
4 **collectively receive no less than**
5 **0.08 percent of the funds available**
6 **for covered grants for such fiscal**
7 **year for purposes of addressing**
8 **the needs identified in the appli-**
9 **cations of such tribes, consistent**
10 **with the homeland security plan**
11 **of each State within the bound-**
12 **aries of which any part of any**
13 **such tribe is located, except that**
14 **this clause shall not apply with**
15 **respect to funds available for a**
16 **fiscal year if the Secretary re-**
17 **ceives less than 5 applications for**
18 **such fiscal year from such tribes**
19 **under subsection (e)(6)(A) or does**
20 **not approve at least one such ap-**
21 **plication.**

22 **[(“C) ADDITIONAL HIGH-RISK QUALI-**
23 **FYING CRITERIA.—For purposes of sub-**
24 **paragraph (B)(ii), additional high-risk**
25 **qualifying criteria consist of—**

1 **[(i) having a significant**
2 **international land border; or**

3 **[(ii) adjoining a body of**
4 **water within North America**
5 **through which an international**
6 **boundary line extends.**

7 **[(4) EFFECT OF REGIONAL AWARDS ON**
8 **STATE MINIMUM.—Any regional award, or**
9 **portion thereof, provided to a State**
10 **under subsection (e)(5)(C) shall not be**
11 **considered in calculating the minimum**
12 **State award under paragraph (3)(B) of**
13 **this subsection.**

14 **[(5) FUNCTIONS OF UNDER SECRE-**
15 **TARIES.—The Under Secretaries referred**
16 **to in paragraph (1) shall seek to ensure**
17 **that the relevant expertise and input of**
18 **the staff of their directorates are avail-**
19 **able to and considered by the Board.**

20 **["SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**
21 **QUIREMENTS.**

22 **[(a) IN GENERAL.—A covered grant may**
23 **be used for—**

24 **[(1) purchasing or upgrading equip-**
25 **ment, including computer software, to en-**

1 **hance terrorism preparedness and re-**
2 **sponse;**

3 **[(2) exercises to strengthen ter-**
4 **rorism preparedness and response;**

5 **[(3) training for prevention (includ-**
6 **ing detection) of, preparedness for, or re-**
7 **sponse to attacks involving weapons of**
8 **mass destruction, including training in**
9 **the use of equipment and computer soft-**
10 **ware;**

11 **[(4) developing or updating response**
12 **plans;**

13 **[(5) establishing or enhancing mech-**
14 **anisms for sharing terrorism threat infor-**
15 **mation;**

16 **[(6) systems architecture and engi-**
17 **neering, program planning and manage-**
18 **ment, strategy formulation and strategic**
19 **planning, life-cycle systems design, prod-**
20 **uct and technology evaluation, and proto-**
21 **type development for terrorism prepared-**
22 **ness and response purposes;**

23 **[(7) additional personnel costs re-**
24 **sulting from—**

1 **[(A) elevations in the threat alert**
2 **level of the Homeland Security Advi-**
3 **sory System by the Secretary, or a**
4 **similar elevation in threat alert level**
5 **issued by a State, region, or local gov-**
6 **ernment with the approval of the Sec-**
7 **retary;**

8 **[(B) travel to and participation**
9 **in exercises and training in the use of**
10 **equipment and on prevention activi-**
11 **ties;**

12 **[(C) the temporary replacement**
13 **of personnel during any period of**
14 **travel to and participation in exer-**
15 **cises and training in the use of equip-**
16 **ment and on prevention activities;**
17 **and**

18 **[(D) personnel engaged exclu-**
19 **sively in counterterrorism and intel-**
20 **ligence activities notwithstanding the**
21 **date such personnel were hired;**

22 **[(8) the costs of equipment (includ-**
23 **ing software) required to receive, trans-**
24 **mit, handle, and store classified informa-**
25 **tion;**

1 **[(9) protecting critical infrastruc-**
2 **ture against potential attack by the addi-**
3 **tion of barriers, fences, gates, and other**
4 **such devices, except that the cost of such**
5 **measures may not exceed the greater of—**

6 **[(A) \$1,000,000 per project; or**

7 **[(B) such greater amount as may**
8 **be approved by the Secretary, which**
9 **may not exceed 10 percent of the**
10 **total amount of the covered grant;**

11 **[(10) the costs of commercially avail-**
12 **able interoperable communications**
13 **equipment (which, where applicable, is**
14 **based on national, voluntary consensus**
15 **standards) that the Secretary, in con-**
16 **sultation with the Chairman of the Fed-**
17 **eral Communications Commission, deems**
18 **best suited to facilitate interoperability,**
19 **coordination, and integration between**
20 **and among emergency communications**
21 **systems, and that complies with pre-**
22 **vailing grant guidance of the Department**
23 **for interoperable communications;**

1 **[(11) educational curricula develop-**
2 **ment for first responders to ensure that**
3 **they are prepared for terrorist attacks;**

4 **[(12) training and exercises to assist**
5 **public elementary and secondary schools**
6 **in developing and implementing pro-**
7 **grams to instruct students regarding age-**
8 **appropriate skills to prepare for and re-**
9 **spond to an act of terrorism;**

10 **[(13) paying of administrative ex-**
11 **penses directly related to administration**
12 **of the grant, except that such expenses**
13 **may not exceed 3 percent of the amount**
14 **of the grant;**

15 **[(14) reimbursement for overtime**
16 **and other fixed costs incurred for home-**
17 **land security purposes after September**
18 **11, 2001; and**

19 **[(15) other appropriate activities as**
20 **determined by the Secretary.**

21 **[(b) PROHIBITED USES.—Funds provided**
22 **as a covered grant may not be used—**

23 **[(1) to supplant State or local funds;**

24 **[(2) to construct buildings or other**
25 **physical facilities;**

1 **[(3) to acquire land; or**

2 **[(4) for any State or local govern-**
3 **ment cost sharing contribution.**

4 **[(c) MULTIPLE-PURPOSE FUNDS.—Nothing**
5 **in this section shall be construed to preclude**
6 **State and local governments from using cov-**
7 **ered grant funds in a manner that also en-**
8 **hances first responder preparedness for**
9 **emergencies and disasters unrelated to acts of**
10 **terrorism, if such use assists such govern-**
11 **ments in achieving essential capabilities for**
12 **terrorism preparedness established by the**
13 **Secretary under section 1803.**

14 **[(d) REIMBURSEMENT OF COSTS.—In addi-**
15 **tion to the activities described in subsection**
16 **(a), a covered grant may be used to provide**
17 **a reasonable stipend to paid-on-call or volun-**
18 **teer first responders who are not otherwise**
19 **compensated for travel to or participation in**
20 **training covered by this section. Any such re-**
21 **imbursement shall not be considered com-**
22 **pensation for purposes of rendering such a**
23 **first responder an employee under the Fair**
24 **Labor Standards Act of 1938 (29 U.S.C. 201 et**
25 **seq.).**

1 **[(e) ASSISTANCE REQUIREMENT.—The Sec-**
2 **retary may not request that equipment paid**
3 **for, wholly or in part, with funds provided as**
4 **a covered grant be made available for re-**
5 **sponding to emergencies in surrounding**
6 **States, regions, and localities, unless the Sec-**
7 **retary undertakes to pay the costs directly at-**
8 **tributable to transporting and operating such**
9 **equipment during such response.**

10 **[(f) FLEXIBILITY IN UNSPENT HOMELAND**
11 **SECURITY GRANT FUNDS.—Upon request by the**
12 **recipient of a covered grant, the Secretary**
13 **may authorize the grantee to transfer all or**
14 **part of funds provided as the covered grant**
15 **from uses specified in the grant agreement to**
16 **other uses authorized under this section, if**
17 **the Secretary determines that such transfer is**
18 **in the interests of homeland security.**

19 **[(g) STATE, REGIONAL, AND TRIBAL RE-**
20 **SPONSIBILITIES.—**

21 **[(1) PASS-THROUGH.—The Secretary**
22 **shall require a recipient of a covered**
23 **grant that is a State to obligate or other-**
24 **wise make available to local govern-**
25 **ments, first responders, and other local**

1 groups, to the extent required under the
2 State homeland security plan or plans
3 specified in the application for the grant,
4 not less than 80 percent of the grant
5 funds, resources purchased with the
6 grant funds having a value equal to at
7 least 80 percent of the amount of the
8 grant, or a combination thereof, by not
9 later than the end of the 45-day period
10 beginning on the date the grant recipient
11 receives the grant funds.

12 **["(2) COST SHARING.—**

13 **["(A) IN GENERAL.—**The Federal
14 share of the costs of an activity car-
15 ried out with a covered grant to a
16 State, region, or directly eligible tribe
17 awarded after the 2-year period be-
18 ginning on the date of the enactment
19 of this section shall not exceed 75
20 percent.

21 **["(B) INTERIM RULE.—**The Federal
22 share of the costs of an activity car-
23 ried out with a covered grant award-
24 ed before the end of the 2-year period
25 beginning on the date of the enact-

1 ment of this section shall be 100 per-
2 cent.

3 **[(C) IN-KIND MATCHING.—Each re-**
4 **recipient of a covered grant may meet**
5 **the matching requirement under sub-**
6 **paragraph (A) by making in-kind con-**
7 **tributions of goods or services that**
8 **are directly linked with the purpose**
9 **for which the grant is made, includ-**
10 **ing, but not limited to, any necessary**
11 **personnel overtime, contractor serv-**
12 **ices, administrative costs, equipment**
13 **fuel and maintenance, and rental**
14 **space.**

15 **[(3) CERTIFICATIONS REGARDING DIS-**
16 **TRIBUTION OF GRANT FUNDS TO LOCAL GOV-**
17 **ERNMENTS.—Any State that receives a cov-**
18 **ered grant shall certify to the Secretary,**
19 **by not later than 30 days after the expira-**
20 **tion of the period described in paragraph**
21 **(1) with respect to the grant, that the**
22 **State has made available for expenditure**
23 **by local governments, first responders,**
24 **and other local groups the required**

1 **amount of grant funds pursuant to para-**
2 **graph (1).**

3 **[(4) QUARTERLY REPORT ON HOMELAND**
4 **SECURITY SPENDING.—The Federal share**
5 **described in paragraph (2)(A) may be in-**
6 **creased by up to 2 percent for any State,**
7 **region, or directly eligible tribe that, not**
8 **later than 30 days after the end of each**
9 **fiscal quarter, submits to the Secretary a**
10 **report on that fiscal quarter. Each such**
11 **report must include, for each recipient of**
12 **a covered grant or a pass-through under**
13 **paragraph (1)—**

14 **[(A) the amount obligated to that**
15 **recipient in that quarter;**

16 **[(B) the amount expended by**
17 **that recipient in that quarter; and**

18 **[(C) a summary description of**
19 **the items purchased by such recipi-**
20 **ent with such amount.**

21 **[(5) ANNUAL REPORT ON HOMELAND SE-**
22 **CURITY SPENDING.—Each recipient of a**
23 **covered grant shall submit an annual re-**
24 **port to the Secretary not later than 60**
25 **days after the end of each fiscal year.**

1 **Each recipient of a covered grant that is**
2 **a region must simultaneously submit its**
3 **report to each State of which any part is**
4 **included in the region. Each recipient of**
5 **a covered grant that is a directly eligible**
6 **tribe must simultaneously submit its re-**
7 **port to each State within the boundaries**
8 **of which any part of such tribe is located.**
9 **Each report must include the following:**

10 **[“(A) The amount, ultimate recipi-**
11 **ents, and dates of receipt of all funds**
12 **received under the grant during the**
13 **previous fiscal year.**

14 **[“(B) The amount and the dates of**
15 **disbursements of all such funds ex-**
16 **pended in compliance with para-**
17 **graph (1) or pursuant to mutual aid**
18 **agreements or other sharing arrange-**
19 **ments that apply within the State, re-**
20 **gion, or directly eligible tribe, as ap-**
21 **plicable, during the previous fiscal**
22 **year.**

23 **[“(C) How the funds were utilized**
24 **by each ultimate recipient or bene-**

1 ficiary during the preceding fiscal
2 year.

3 [“(D) The extent to which essen-
4 tial capabilities identified in the ap-
5 plicable State homeland security plan
6 or plans were achieved, maintained,
7 or enhanced as the result of the ex-
8 penditure of grant funds during the
9 preceding fiscal year.

10 [“(E) The extent to which essen-
11 tial capabilities identified in the ap-
12 plicable State homeland security plan
13 or plans remain unmet.

14 [“(6) INCLUSION OF RESTRICTED AN-
15 NEXES.—A recipient of a covered grant
16 may submit to the Secretary an annex to
17 the annual report under paragraph (5)
18 that is subject to appropriate handling
19 restrictions, if the recipient believes that
20 discussion in the report of unmet needs
21 would reveal sensitive but unclassified
22 information.

23 [“(7) PROVISION OF REPORTS.—The Sec-
24 retary shall ensure that each annual re-
25 port under paragraph (5) is provided to

1 the Under Secretary for Emergency Pre-
2 paredness and Response and the Director
3 of the Office for Domestic Preparedness.

4 **[(“h) INCENTIVES TO EFFICIENT ADMINISTRA-**
5 **TION OF HOMELAND SECURITY GRANTS.—**

6 **[(“(1) PENALTIES FOR DELAY IN PASSING**
7 **THROUGH LOCAL SHARE.—If a recipient of a**
8 **covered grant that is a State fails to pass**
9 **through to local governments, first re-**
10 **sponders, and other local groups funds or**
11 **resources required by subsection (g)(1)**
12 **within 45 days after receiving funds**
13 **under the grant, the Secretary may—**

14 **[(“(A) reduce grant payments to**
15 **the grant recipient from the portion**
16 **of grant funds that is not required to**
17 **be passed through under subsection**
18 **(g)(1);**

19 **[(“(B) terminate payment of funds**
20 **under the grant to the recipient, and**
21 **transfer the appropriate portion of**
22 **those funds directly to local first re-**
23 **sponders that were intended to re-**
24 **ceive funding under that grant; or**

1 **[(C) impose additional restric-**
2 **tions or burdens on the recipient’s**
3 **use of funds under the grant, which**
4 **may include—**

5 **[(i) prohibiting use of such**
6 **funds to pay the grant recipient’s**
7 **grant-related overtime or other**
8 **expenses;**

9 **[(ii) requiring the grant re-**
10 **cipient to distribute to local gov-**
11 **ernment beneficiaries all or a por-**
12 **tion of grant funds that are not**
13 **required to be passed through**
14 **under subsection (g)(1); or**

15 **[(iii) for each day that the**
16 **grant recipient fails to pass**
17 **through funds or resources in ac-**
18 **cordance with subsection (g)(1),**
19 **reducing grant payments to the**
20 **grant recipient from the portion**
21 **of grant funds that is not re-**
22 **quired to be passed through**
23 **under subsection (g)(1), except**
24 **that the total amount of such re-**
25 **duction may not exceed 20 per-**

1 cent of the total amount of the
2 grant.

3 **[(2) EXTENSION OF PERIOD.—The Gov-**
4 **ernor of a State may request in writing**
5 **that the Secretary extend the 45-day pe-**
6 **riod under section 1805(e)(5)(E) or para-**
7 **graph (1) for an additional 15-day period.**
8 **The Secretary may approve such a re-**
9 **quest, and may extend such period for**
10 **additional 15-day periods, if the Sec-**
11 **retary determines that the resulting**
12 **delay in providing grant funding to the**
13 **local government entities that will re-**
14 **ceive funding under the grant will not**
15 **have a significant detrimental impact on**
16 **such entities' terrorism preparedness ef-**
17 **forts.**

18 **[(3) PROVISION OF NON-LOCAL SHARE**
19 **TO LOCAL GOVERNMENT.—**

20 **[(A) IN GENERAL.—The Secretary**
21 **may upon request by a local govern-**
22 **ment pay to the local government a**
23 **portion of the amount of a covered**
24 **grant awarded to a State in which the**
25 **local government is located, if—**

1 **[(i) the local government will**
2 **use the amount paid to expedite**
3 **planned enhancements to its ter-**
4 **rorism preparedness as described**
5 **in any applicable State homeland**
6 **security plan or plans;**

7 **[(ii) the State has failed to**
8 **pass through funds or resources**
9 **in accordance with subsection**
10 **(g)(1); and**

11 **[(iii) the local government**
12 **complies with subparagraphs (B)**
13 **and (C).**

14 **[(B) SHOWING REQUIRED.—To re-**
15 **ceive a payment under this para-**
16 **graph, a local government must dem-**
17 **onstrate that—**

18 **[(i) it is identified explicitly**
19 **as an ultimate recipient or in-**
20 **tended beneficiary in the ap-**
21 **proved grant application;**

22 **[(ii) it was intended by the**
23 **grantee to receive a severable**
24 **portion of the overall grant for a**

1 **specific purpose that is identified**
2 **in the grant application;**

3 **[(“iii) it petitioned the grant-**
4 **ee for the funds or resources after**
5 **expiration of the period within**
6 **which the funds or resources**
7 **were required to be passed**
8 **through under subsection (g)(1);**
9 **and**

10 **[(“iv) it did not receive the**
11 **portion of the overall grant that**
12 **was earmarked or designated for**
13 **its use or benefit.**

14 **[(“C) EFFECT OF PAYMENT.—Pay-**
15 **ment of grant funds to a local govern-**
16 **ment under this paragraph—**

17 **[(“i) shall not affect any pay-**
18 **ment to another local government**
19 **under this paragraph; and**

20 **[(“ii) shall not prejudice con-**
21 **sideration of a request for pay-**
22 **ment under this paragraph that is**
23 **submitted by another local gov-**
24 **ernment.**

1 **[(D) DEADLINE FOR ACTION BY SEC-**
2 **RETARY.—The Secretary shall approve**
3 **or disapprove each request for pay-**
4 **ment under this paragraph by not**
5 **later than 15 days after the date the**
6 **request is received by the Depart-**
7 **ment.**

8 **[(i) REPORTS TO CONGRESS.—The Sec-**
9 **retary shall submit an annual report to the**
10 **Congress by December 31 of each year—**

11 **[(1) describing in detail the amount**
12 **of Federal funds provided as covered**
13 **grants that were directed to each State,**
14 **region, and directly eligible tribe in the**
15 **preceding fiscal year;**

16 **[(2) containing information on the**
17 **use of such grant funds by grantees; and**

18 **[(3) describing—**

19 **[(A) the Nation’s progress in**
20 **achieving, maintaining, and enhanc-**
21 **ing the essential capabilities estab-**
22 **lished under section 1803(a) as a re-**
23 **sult of the expenditure of covered**
24 **grant funds during the preceding fis-**
25 **cal year; and**

1 **[(B) an estimate of the amount of**
2 **expenditures required to attain**
3 **across the United States the essential**
4 **capabilities established under section**
5 **1803(a).**

6 **["SEC. 1807. NATIONAL STANDARDS FOR FIRST RE-**
7 **SPONDER EQUIPMENT AND TRAINING.**

8 **[(a) EQUIPMENT STANDARDS.—**

9 **[(1) IN GENERAL.—The Secretary, in**
10 **consultation with the Under Secretaries**
11 **for Emergency Preparedness and Re-**
12 **sponse and Science and Technology and**
13 **the Director of the Office for Domestic**
14 **Preparedness, shall, not later than 6**
15 **months after the date of enactment of**
16 **this section, support the development of,**
17 **promulgate, and update as necessary na-**
18 **tional voluntary consensus standards for**
19 **the performance, use, and validation of**
20 **first responder equipment for purposes**
21 **of section 1805(e)(7). Such standards—**

22 **[(A) shall be, to the maximum ex-**
23 **tent practicable, consistent with any**
24 **existing voluntary consensus stand-**
25 **ards;**

1 **[(B) shall take into account, as**
2 **appropriate, new types of terrorism**
3 **threats that may not have been con-**
4 **templated when such existing stand-**
5 **ards were developed;**

6 **[(C) shall be focused on maxi-**
7 **mizing interoperability, interchange-**
8 **ability, durability, flexibility, effi-**
9 **ciency, efficacy, portability, sustain-**
10 **ability, and safety; and**

11 **[(D) shall cover all appropriate**
12 **uses of the equipment.**

13 **[(2) REQUIRED CATEGORIES.—In car-**
14 **rying out paragraph (1), the Secretary**
15 **shall specifically consider the following**
16 **categories of first responder equipment:**

17 **[(A) Thermal imaging equip-**
18 **ment.**

19 **[(B) Radiation detection and**
20 **analysis equipment.**

21 **[(C) Biological detection and**
22 **analysis equipment.**

23 **[(D) Chemical detection and**
24 **analysis equipment.**

1 **[(E) Decontamination and steri-**
2 **lization equipment.**

3 **[(F) Personal protective equip-**
4 **ment, including garments, boots,**
5 **gloves, and hoods and other protec-**
6 **tive clothing.**

7 **[(G) Respiratory protection**
8 **equipment.**

9 **[(H) Interoperable communica-**
10 **tions, including wireless and wireline**
11 **voice, video, and data networks.**

12 **[(I) Explosive mitigation devices**
13 **and explosive detection and analysis**
14 **equipment.**

15 **[(J) Containment vessels.**

16 **[(K) Contaminant-resistant vehi-**
17 **cles.**

18 **[(L) Such other equipment for**
19 **which the Secretary determines that**
20 **national voluntary consensus stand-**
21 **ards would be appropriate.**

22 **[(b) TRAINING STANDARDS.—**

23 **[(1) IN GENERAL.—The Secretary, in**
24 **consultation with the Under Secretaries**
25 **for Emergency Preparedness and Re-**

1 sponse and Science and Technology and
2 the Director of the Office for Domestic
3 Preparedness, shall support the develop-
4 ment of, promulgate, and regularly up-
5 date as necessary national voluntary con-
6 sensus standards for first responder
7 training carried out with amounts pro-
8 vided under covered grant programs,
9 that will enable State and local govern-
10 ment first responders to achieve optimal
11 levels of terrorism preparedness as
12 quickly as practicable. Such standards
13 shall give priority to providing training
14 to—

15 [“(A) enable first responders to
16 prevent, prepare for, respond to, and
17 mitigate terrorist threats, including
18 threats from chemical, biological, nu-
19 clear, and radiological weapons and
20 explosive devices capable of inflicting
21 significant human casualties; and

22 [“(B) familiarize first responders
23 with the proper use of equipment, in-
24 cluding software, developed pursuant

1 to the standards established under
2 subsection (a).

3 **[(2) REQUIRED CATEGORIES.—In car-**
4 **rying out paragraph (1), the Secretary**
5 **specifically shall include the following**
6 **categories of first responder activities:**

7 **[(A) Regional planning.**

8 **[(B) Joint exercises.**

9 **[(C) Intelligence collection, anal-**
10 **ysis, and sharing.**

11 **[(D) Emergency notification of**
12 **affected populations.**

13 **[(E) Detection of biological, nu-**
14 **clear, radiological, and chemical**
15 **weapons of mass destruction.**

16 **[(F) Such other activities for**
17 **which the Secretary determines that**
18 **national voluntary consensus train-**
19 **ing standards would be appropriate.**

20 **[(3) CONSISTENCY.—In carrying out**
21 **this subsection, the Secretary shall en-**
22 **sure that such training standards are**
23 **consistent with the principles of emer-**
24 **gency preparedness for all hazards.**

1 **[(c) CONSULTATION WITH STANDARDS OR-**
2 **GANIZATIONS.—In establishing national vol-**
3 **untary consensus standards for first re-**
4 **sponder equipment and training under this**
5 **section, the Secretary shall consult with rel-**
6 **evant public and private sector groups, in-**
7 **cluding—**

8 **[(1) the National Institute of Stand-**
9 **ards and Technology;**

10 **[(2) the National Fire Protection As-**
11 **sociation;**

12 **[(3) the National Association of**
13 **County and City Health Officials;**

14 **[(4) the Association of State and Ter-**
15 **ritorial Health Officials;**

16 **[(5) the American National Stand-**
17 **ards Institute;**

18 **[(6) the National Institute of Justice;**

19 **[(7) the Inter-Agency Board for**
20 **Equipment Standardization and Inter-**
21 **operability;**

22 **[(8) the National Public Health Per-**
23 **formance Standards Program;**

24 **[(9) the National Institute for Occu-**
25 **pational Safety and Health;**

1 **[(10) ASTM International;**

2 **[(11) the International Safety Equip-**
3 **ment Association;**

4 **[(12) the Emergency Management**
5 **Accreditation Program; and**

6 **[(13) to the extent the Secretary con-**
7 **siders appropriate, other national vol-**
8 **untary consensus standards development**
9 **organizations, other interested Federal,**
10 **State, and local agencies, and other inter-**
11 **ested persons.**

12 **[(d) COORDINATION WITH SECRETARY OF**
13 **HHS.—In establishing any national voluntary**
14 **consensus standards under this section for**
15 **first responder equipment or training that in-**
16 **volve or relate to health professionals, includ-**
17 **ing emergency medical professionals, the Sec-**
18 **retary shall coordinate activities under this**
19 **section with the Secretary of Health and**
20 **Human Services.”.**

21 **[(b) DEFINITION OF EMERGENCY RESPONSE**
22 **PROVIDERS.—Paragraph (6) of section 2 of the**
23 **Homeland Security Act of 2002 (Public Law**
24 **107–296; 6 U.S.C. 101(6)) is amended by strik-**
25 **ing “includes” and all that follows and insert-**

1 ing “includes Federal, State, and local govern-
2 mental and nongovernmental emergency pub-
3 lic safety, law enforcement, fire, emergency
4 response, emergency medical (including hos-
5 pital emergency facilities), and related per-
6 sonnel, organizations, agencies, and authori-
7 ties.”.

8 [(c) TEMPORARY LIMITATIONS ON APPLICA-
9 TION.—

10 [(1) 1-YEAR DELAY IN APPLICATION.—

11 The following provisions of title XVIII of
12 the Homeland Security Act of 2002, as
13 amended by subsection (a), shall not
14 apply during the 1-year period beginning
15 on the date of the enactment of this Act:

16 [(A) Subsections (b), (c), and
17 (e)(4)(A) and (B) of section 1805.

18 [(B) In section 1805(f)(3)(A), the
19 phrase “, by enhancing the essential
20 capabilities of the applicants,”.

21 [(2) 2-YEAR DELAY IN APPLICATION.—

22 The following provisions of title XVIII of
23 the Homeland Security Act of 2002, as
24 amended by subsection (a), shall not

1 **apply during the 2-year period beginning**
2 **on the date of the enactment of this Act:**

3 **[(A) Subparagraphs (D) and (E) of**
4 **section 1806(g)(5).**

5 **[(B) Section 1806(i)(3).**

6 **[SEC. 5004. MODIFICATION OF HOMELAND SECURITY ADVI-**
7 **SORY SYSTEM.**

8 **[(a) IN GENERAL.—Subtitle A of title II of**
9 **the Homeland Security Act of 2002 (Public**
10 **Law 107–296; 6 U.S.C. 121 et seq.) is amended**
11 **by adding at the end the following:**

12 **[“SEC. 203. HOMELAND SECURITY ADVISORY SYSTEM.**

13 **[(a) IN GENERAL.—The Secretary shall re-**
14 **vis the Homeland Security Advisory System**
15 **referred to in section 201(d)(7) to require that**
16 **any designation of a threat level or other**
17 **warning shall be accompanied by a designa-**
18 **tion of the geographic regions or economic**
19 **sectors to which the designation applies.**

20 **[(b) REPORTS.—The Secretary shall re-**
21 **port to the Congress annually by not later**
22 **than December 31 each year regarding the ge-**
23 **ographic region-specific warnings and eco-**
24 **nomic sector-specific warnings issued during**
25 **the preceding fiscal year under the Homeland**

1 **Security Advisory System referred to in sec-**
2 **tion 201(d)(7), and the bases for such warn-**
3 **ings. The report shall be submitted in unclas-**
4 **sified form and may, as necessary, include a**
5 **classified annex.”.**

6 **[(b) CLERICAL AMENDMENT.—The table of**
7 **contents in section 1(b) of the Homeland Secu-**
8 **rity Act of 2002 (6 U.S.C. 101 et seq.) is amend-**
9 **ed by inserting after the item relating to sec-**
10 **tion 202 the following:**

[“203. Homeland Security Advisory System.”.

11 **[SEC. 5005. COORDINATION OF INDUSTRY EFFORTS.**

12 **[Section 102(f) of the Homeland Security**
13 **Act of 2002 (Public Law 107–296; 6 U.S.C.**
14 **112(f)) is amended by striking “and” after the**
15 **semicolon at the end of paragraph (6), by**
16 **striking the period at the end of paragraph (7)**
17 **and inserting “; and”, and by adding at the**
18 **end the following:**

19 **[“(8) coordinating industry efforts,**
20 **with respect to functions of the Depart-**
21 **ment of Homeland Security, to identify**
22 **private sector resources and capabilities**
23 **that could be effective in supplementing**
24 **Federal, State, and local government**

1 **agency efforts to prevent or respond to a**
2 **terrorist attack.”.**

3 [SEC. 5006. SUPERSEDED PROVISION.

4 **[This subtitle supersedes section 1014 of**
5 **Public Law 107–56.**

6 [SEC. 5007. SENSE OF CONGRESS REGARDING INTEROPER-
7 ABLE COMMUNICATIONS.

8 **[(a) FINDING.—The Congress finds that—**

9 **[(1) many first responders working in**
10 **the same jurisdiction or in different juris-**
11 **dictions cannot effectively and efficiently**
12 **communicate with one another; and**

13 **[(2) their inability to do so threatens**
14 **the public’s safety and may result in un-**
15 **necessary loss of lives and property.**

16 **[(b) SENSE OF CONGRESS.—It is the sense of**
17 **the Congress that interoperable emergency**
18 **communications systems and radios should**
19 **continue to be deployed as soon as prac-**
20 **ticable for use by the first responder commu-**
21 **nity, and that upgraded and new digital com-**
22 **munications systems and new digital radios**
23 **must meet prevailing national, voluntary con-**
24 **sensus standards for interoperability.**

1 [SEC. 5008. SENSE OF CONGRESS REGARDING CITIZEN
2 CORPS COUNCILS.

3 [(a) FINDING.—The Congress finds that
4 Citizen Corps councils help to enhance local
5 citizen participation in terrorism prepared-
6 ness by coordinating multiple Citizen Corps
7 programs, developing community action
8 plans, assessing possible threats, and identi-
9 fying local resources.

10 [(b) SENSE OF CONGRESS.—It is the sense of
11 the Congress that individual Citizen Corps
12 councils should seek to enhance the prepared-
13 ness and response capabilities of all organiza-
14 tions participating in the councils, including
15 by providing funding to as many of their par-
16 ticipating organizations as practicable to pro-
17 mote local terrorism preparedness programs.

18 [SEC. 5009. STUDY REGARDING NATIONWIDE EMERGENCY
19 NOTIFICATION SYSTEM.

20 [(a) STUDY.—The Secretary of Homeland
21 Security, in consultation with the heads of
22 other appropriate Federal agencies and rep-
23 resentatives of providers and participants in
24 the telecommunications industry, shall con-
25 duct a study to determine whether it is cost-
26 effective, efficient, and feasible to establish

1 and implement an emergency telephonic alert
2 notification system that will—

3 **[(1) alert persons in the United States**
4 **of imminent or current hazardous events**
5 **caused by acts of terrorism; and**

6 **[(2) provide information to individ-**
7 **uals regarding appropriate measures that**
8 **may be undertaken to alleviate or mini-**
9 **mize threats to their safety and welfare**
10 **posed by such events.**

11 **[(b) TECHNOLOGIES TO CONSIDER.—In con-**
12 **ducting the study, the Secretary shall con-**
13 **sider the use of the telephone, wireless com-**
14 **munications, and other existing communica-**
15 **tions networks to provide such notification.**

16 **[(c) REPORT.—Not later than 9 months**
17 **after the date of the enactment of this Act, the**
18 **Secretary shall submit to the Congress a re-**
19 **port regarding the conclusions of the study.**

20 **[SEC. 5010. REQUIRED COORDINATION.**

21 **[The Secretary of Homeland Security**
22 **shall ensure that there is effective and ongoing**
23 **coordination of Federal efforts to prevent,**
24 **prepare for, and respond to acts of terrorism**
25 **and other major disasters and emergencies**

1 among the divisions of the Department of
2 Homeland Security, including the Directorate
3 of Emergency Preparedness and Response
4 and the Office for State and Local Govern-
5 ment Coordination and Preparedness.

6 **[Subtitle B—Government**
7 **Reorganization Authority**

8 [SEC. 5021. AUTHORIZATION OF INTELLIGENCE COMMU-
9 NITY REORGANIZATION PLANS.

10 **[(a) REORGANIZATION PLANS.—Section**
11 **903(a)(2) of title 5, United States Code, is**
12 **amended to read as follows:**

13 **[(“(2) the abolition of all or a part of**
14 **the functions of an agency;”.**

15 **[(b) REPEAL OF LIMITATIONS.—Section 905**
16 **of title 5, United States Code, is amended to**
17 **read as follows:**

18 **[“§ 905. Limitation on authority.**

19 **[(“The authority to submit reorganization**
20 **plans under this chapter is limited to the fol-**
21 **lowing organizational units:**

22 **[(“(1) The Office of the National Intel-**
23 **ligence Director.**

24 **[(“(2) The Central Intelligence Agency.**

25 **[(“(3) The National Security Agency.**

1 **[(4) The Defense Intelligence Agen-**
2 **cy.**

3 **[(5) The National Geospatial-Intel-**
4 **ligence Agency.**

5 **[(6) The National Reconnaissance**
6 **Office.**

7 **[(7) Other offices within the Depart-**
8 **ment of Defense for the collection of spe-**
9 **cialized national intelligence through re-**
10 **connaissance programs.**

11 **[(8) The intelligence elements of the**
12 **Army, the Navy, the Air Force, the Ma-**
13 **rine Corps, the Federal Bureau of Inves-**
14 **tigation, and the Department of Energy.**

15 **[(9) The Bureau of Intelligence and**
16 **Research of the Department of State.**

17 **[(10) The Office of Intelligence Anal-**
18 **ysis of the Department of Treasury.**

19 **[(11) The elements of the Depart-**
20 **ment of Homeland Security concerned**
21 **with the analysis of intelligence informa-**
22 **tion, including the Office of Intelligence**
23 **of the Coast Guard.**

24 **[(12) Such other elements of any**
25 **other department or agency as may be**

1 **designated by the President, or des-**
2 **ignated jointly by the National Intel-**
3 **ligence Director and the head of the de-**
4 **partment or agency concerned, as an ele-**
5 **ment of the intelligence community.”.**

6 **[(c) REORGANIZATION PLANS.—Section**
7 **903(a) of title 5, United States Code, is amend-**
8 **ed—**

9 **[(1) in paragraph (5), by striking “or”**
10 **after the semicolon;**

11 **[(2) in paragraph (6), by striking the**
12 **period and inserting “; or”; and**

13 **[(3) by inserting after paragraph (6)**
14 **the following:**

15 **[“(7) the creation of an agency.”.**

16 **[(d) APPLICATION OF CHAPTER.—Chapter 9**
17 **of title 5, United States Code, is amended by**
18 **adding at the end the following:**

19 **["§ 913. Application of chapter**

20 **["This chapter shall apply to any reorga-**
21 **nization plan transmitted to Congress in ac-**
22 **cordance with section 903(b) on or after the**
23 **date of enactment of this section.”.**

24 **[(e) TECHNICAL AND CONFORMING AMEND-**
25 **MENTS.—**

1 **[(1) TABLE OF SECTIONS.—The table of**
2 **sections for chapter 9 of title 5, United**
3 **States Code, is amended by adding after**
4 **the item relating to section 912 the fol-**
5 **lowing:**

["913. Application of chapter."].

6 **[(2) REFERENCES.—Chapter 9 of title 5,**
7 **United States Code, is amended—**

8 **[(A) in section 908(1), by striking**
9 **“on or before December 31, 1984”; and**

10 **[(B) in section 910, by striking**
11 **“Government Operations” each place**
12 **it appears and inserting “Government**
13 **Reform”.**

14 **[(3) DATE MODIFICATION.—Section 909**
15 **of title 5, United States Code, is amended**
16 **in the first sentence by striking “19” and**
17 **inserting “20”.**

18 **[SEC. 5022. AUTHORITY TO ENTER INTO CONTRACTS AND**
19 **ISSUE FEDERAL LOAN GUARANTEES.**

20 **[(a) FINDING.—Congress finds that there is**
21 **a public interest in protecting high-risk non-**
22 **profit organizations from international ter-**
23 **rorist attacks that would disrupt the vital**
24 **services such organizations provide to the**
25 **people of the United States and threaten the**

1 lives and well-being of United States citizens
2 who operate, utilize, and live or work in prox-
3 imity to such organizations.

4 **[(b) PURPOSES.—The purposes of this sec-**
5 **tion are to—**

6 **[(1) establish within the Department**
7 **of Homeland Security a program to pro-**
8 **tect United States citizens at or near**
9 **high-risk nonprofit organizations from**
10 **international terrorist attacks through**
11 **loan guarantees and Federal contracts**
12 **for security enhancements and technical**
13 **assistance;**

14 **[(2) establish a program within the**
15 **Department of Homeland Security to pro-**
16 **vide grants to local governments to assist**
17 **with incremental costs associated with**
18 **law enforcement in areas in which there**
19 **are a high concentration of high-risk**
20 **nonprofit organizations vulnerable to**
21 **international terrorist attacks; and**

22 **[(3) establish an Office of Community**
23 **Relations and Civic Affairs within the De-**
24 **partment of Homeland Security to focus**
25 **on security needs of high-risk nonprofit**

1 **organizations with respect to inter-**
2 **national terrorist threats.**

3 **[(c) AUTHORITY.—The Homeland Security**
4 **Act of 2002 (6 U.S.C. 101 et seq.), as amended**
5 **by this Act, is further amended by adding at**
6 **the end the following:**

7 **["TITLE XIX—PROTECTION OF**
8 **CITIZENS AT HIGH-RISK NON-**
9 **PROFIT ORGANIZATIONS**

10 **["SEC. 1901. DEFINITIONS.**

11 **[" In this title:**

12 **["(1) CONTRACT.—The term ‘contract’**
13 **means a contract between the Federal**
14 **Government and a contractor selected**
15 **from the list of certified contractors to**
16 **perform security enhancements or pro-**
17 **vide technical assistance approved by the**
18 **Secretary under this title.**

19 **["(2) FAVORABLE REPAYMENT TERMS.—**
20 **The term ‘favorable repayment terms’**
21 **means the repayment terms of loans of-**
22 **fered to nonprofit organizations under**
23 **this title that—**

24 **["(A) are determined by the Sec-**
25 **retary, in consultation with the Sec-**

1 retary of the Treasury, to be favor-
2 able under current market condi-
3 tions;

4 [“(B) have interest rates at least 1
5 full percentage point below the mar-
6 ket rate; and

7 [“(C) provide for repayment over
8 a term not less than 25 years.

9 [“(3) NONPROFIT ORGANIZATION.—The
10 term ‘nonprofit organization’ means an
11 organization that—

12 [“(A) is described under section
13 501(c)(3) of the Internal Revenue
14 Code of 1986 and exempt from tax-
15 ation under section 501(a) of such
16 Code; and

17 [“(B) is designated by the Sec-
18 retary under section 1903(a).

19 [“(4) SECURITY ENHANCEMENTS.—The
20 term ‘security enhancements’—

21 [“(A) means the purchase and in-
22 stallation of security equipment in
23 real property (including buildings
24 and improvements), owned or leased
25 by a nonprofit organization, specifi-

1 cally in response to the risk of attack
2 at a nonprofit organization by an
3 international terrorist organization;

4 ["(B) includes software security
5 measures; and

6 ["(C) does not include enhance-
7 ments that would otherwise have
8 been reasonably necessary due to
9 nonterrorist threats.

10 ["(5) TECHNICAL ASSISTANCE.—The
11 term ‘technical assistance’—

12 ["(A) means guidance, assess-
13 ment, recommendations, and any
14 other provision of information or ex-
15 pertise which assists nonprofit orga-
16 nizations in—

17 ["(i) identifying security
18 needs;

19 ["(ii) purchasing and install-
20 ing security enhancements;

21 ["(iii) training employees to
22 use and maintain security en-
23 hancements; or

1 **[(iv) training employees to**
2 **recognize and respond to inter-**
3 **national terrorist threats; and**

4 **[(B) does not include technical**
5 **assistance that would otherwise have**
6 **been reasonably necessary due to**
7 **nonterrorist threats.**

8 **["SEC. 1902. AUTHORITY TO ENTER INTO CONTRACTS AND**
9 **ISSUE FEDERAL LOAN GUARANTEES.**

10 **[(a) IN GENERAL.—The Secretary may—**

11 **[(1) enter into contracts with cer-**
12 **tified contractors for security enhance-**
13 **ments and technical assistance for non-**
14 **profit organizations; and**

15 **[(2) issue Federal loan guarantees to**
16 **financial institutions in connection with**
17 **loans made by such institutions to non-**
18 **profit organizations for security enhance-**
19 **ments and technical assistance.**

20 **[(b) LOANS.—The Secretary may guar-**
21 **antee loans under this title—**

22 **[(1) only to the extent provided for**
23 **in advance by appropriations Acts; and**

24 **[(2) only to the extent such loans**
25 **have favorable repayment terms.**

1 **[“SEC. 1903. ELIGIBILITY CRITERIA.**

2 **[(a) IN GENERAL.—The Secretary shall**
3 **designate nonprofit organizations as high-**
4 **risk nonprofit organizations eligible for con-**
5 **tracts or loans under this title based on the**
6 **vulnerability of the specific site of the non-**
7 **profit organization to international terrorist**
8 **attacks.**

9 **[(b) VULNERABILITY DETERMINATION.—In**
10 **determining vulnerability to international**
11 **terrorist attacks and eligibility for security**
12 **enhancements or technical assistance under**
13 **this title, the Secretary shall consider—**

14 **[(1) threats of international terrorist**
15 **organizations (as designated by the State**
16 **Department) against any group of United**
17 **States citizens who operate or are the**
18 **principal beneficiaries or users of the**
19 **nonprofit organization;**

20 **[(2) prior attacks, within or outside**
21 **the United States, by international ter-**
22 **rorist organizations against the nonprofit**
23 **organization or entities associated with**
24 **or similarly situated as the nonprofit or-**
25 **ganization;**

1 **[(3) the symbolic value of the site as**
2 **a highly recognized United States cul-**
3 **tural or historical institution that ren-**
4 **ders the site a possible target of inter-**
5 **national terrorism;**

6 **[(4) the role of the nonprofit organi-**
7 **zation in responding to international ter-**
8 **rorist attacks; and**

9 **[(5) any recommendations of the ap-**
10 **plicable State Homeland Security Author-**
11 **ity established under section 1906 or Fed-**
12 **eral, State, and local law enforcement au-**
13 **thorities.**

14 **[(c) DOCUMENTATION.—In order to be eli-**
15 **gible for security enhancements, technical as-**
16 **sistance or loan guarantees under this title,**
17 **the nonprofit organization shall provide the**
18 **Secretary with documentation that—**

19 **[(1) the nonprofit organization**
20 **hosted a gathering of at least 100 or more**
21 **persons at least once each month at the**
22 **nonprofit organization site during the**
23 **preceding 12 months; or**

1 **[(2) the nonprofit organization pro-**
2 **vides services to at least 500 persons each**
3 **year at the nonprofit organization site.**

4 **[(d) TECHNICAL ASSISTANCE ORGANIZA-**
5 **TIONS.—If 2 or more nonprofit organizations**
6 **establish another nonprofit organization to**
7 **provide technical assistance, that established**
8 **organization shall be eligible to receive secu-**
9 **rity enhancements and technical assistance**
10 **under this title based upon the collective risk**
11 **of the nonprofit organizations it serves.**

12 **["SEC. 1904. USE OF LOAN GUARANTEES.**

13 **["Funds borrowed from lending institu-**
14 **tions, which are guaranteed by the Federal**
15 **Government under this title, may be used for**
16 **technical assistance and security enhance-**
17 **ments.**

18 **["SEC. 1905. NONPROFIT ORGANIZATION APPLICATIONS.**

19 **[(a) IN GENERAL.—A nonprofit organiza-**
20 **tion desiring assistance under this title shall**
21 **submit a separate application for each spe-**
22 **cific site needing security enhancements or**
23 **technical assistance.**

24 **[(b) CONTENT.—Each application shall in-**
25 **clude—**

1 **[(1) a detailed request for security**
2 **enhancements and technical assistance,**
3 **from a list of approved enhancements**
4 **and assistance issued by the Secretary**
5 **under this title;**

6 **[(2) a description of the intended**
7 **uses of funds to be borrowed under Fed-**
8 **eral loan guarantees; and**

9 **[(3) such other information as the**
10 **Secretary shall require.**

11 **[(c) JOINT APPLICATION.—Two or more**
12 **nonprofit organizations located on contig-**
13 **uous sites may submit a joint application.**

14 **[“SEC. 1906. REVIEW BY STATE HOMELAND SECURITY AU-**
15 **THORITIES.**

16 **[(a) ESTABLISHMENT OF STATE HOMELAND**
17 **SECURITY AUTHORITIES.—In accordance with**
18 **regulations prescribed by the Secretary, each**
19 **State may establish a State Homeland Secu-**
20 **rity Authority to carry out this title.**

21 **[(b) APPLICATIONS.—**

22 **[(1) SUBMISSION.—Applications shall**
23 **be submitted to the applicable State**
24 **Homeland Security Authority.**

1 **[(2) EVALUATION.—After consultation**
2 **with Federal, State, and local law en-**
3 **forcement authorities, the State Home-**
4 **land Security Authority shall evaluate all**
5 **applications using the criteria under sec-**
6 **tion 1903 and transmit all qualifying ap-**
7 **plications to the Secretary ranked by se-**
8 **verity of risk of international terrorist at-**
9 **tack.**

10 **[(3) APPEAL.—An applicant may ap-**
11 **peal the finding that an application is not**
12 **a qualifying application to the Secretary**
13 **under procedures that the Secretary**
14 **shall issue by regulation not later than 90**
15 **days after the date of enactment of this**
16 **title.**

17 **["SEC. 1907. SECURITY ENHANCEMENT AND TECHNICAL AS-**
18 **SISTANCE CONTRACTS AND LOAN GUARAN-**
19 **TEES.**

20 **[(a) IN GENERAL.—Upon receipt of the ap-**
21 **plications, the Secretary shall select applica-**
22 **tions for execution of security enhancement**
23 **and technical assistance contracts, or**
24 **issuance of loan guarantees, giving pref-**
25 **erence to the nonprofit organizations deter-**

1 mined to be at greatest risk of international
2 terrorist attack based on criteria under sec-
3 tion 1903.

4 **[(“b) SECURITY ENHANCEMENTS AND TECH-**
5 **NICAL ASSISTANCE; FOLLOWED BY LOAN GUARAN-**
6 **TEES.—The Secretary shall execute security**
7 **enhancement and technical assistance con-**
8 **tracts for the highest priority applicants until**
9 **available funds are expended, after which**
10 **loan guarantees shall be made available for**
11 **additional applicants determined to be at**
12 **high risk, up to the authorized amount of loan**
13 **guarantees. The Secretary may provide with**
14 **respect to a single application a combination**
15 **of such contracts and loan guarantees.**

16 **[(“c) JOINT APPLICATIONS.—Special pref-**
17 **erence shall be given to joint applications**
18 **submitted on behalf of multiple nonprofit or-**
19 **ganizations located in contiguous settings.**

20 **[(“d) MAXIMIZING AVAILABLE FUNDS.—Sub-**
21 **ject to subsection (b), the Secretary shall exe-**
22 **cute security enhancement and technical as-**
23 **sistance contracts in such amounts as to**
24 **maximize the number of high-risk applicants**

1 nationwide receiving assistance under this
2 title.

3 **[(e) APPLICANT NOTIFICATION.—Upon se-**
4 **lecting a nonprofit organization for assist-**
5 **ance under this title, the Secretary shall no-**
6 **tify the nonprofit organization that the Fed-**
7 **eral Government is prepared to enter into a**
8 **contract with certified contractors to install**
9 **specified security enhancements or provide**
10 **specified technical assistance at the site of**
11 **the nonprofit organization.**

12 **[(f) CERTIFIED CONTRACTORS.—**

13 **[(1) IN GENERAL.—Upon receiving a**
14 **notification under subsection (e), the**
15 **nonprofit organization shall select a cer-**
16 **tified contractor to perform the specified**
17 **security enhancements, from a list of cer-**
18 **tified contractors issued and maintained**
19 **by the Secretary under subsection (j).**

20 **[(2) LIST.—The list referred to in**
21 **paragraph (1) shall be comprised of con-**
22 **tractors selected on the basis of—**

23 **[(A) technical expertise;**

1 **[(B) performance record includ-**
2 **ing quality and timeliness of work**
3 **performed;**

4 **[(C) adequacy of employee crimi-**
5 **nal background checks; and**

6 **[(D) price competitiveness.**

7 **[(3) OTHER CERTIFIED CONTRACTORS.—**
8 **The Secretary shall include on the list of**
9 **certified contractors additional contrac-**
10 **tors selected by senior officials at State**
11 **Homeland Security Authorities and the**
12 **chief executives of county and other local**
13 **jurisdictions. Such additional certified**
14 **contractors shall be selected on the basis**
15 **of the criteria under paragraph (2).**

16 **[(g) ENSURING THE AVAILABILITY OF CON-**
17 **TRACTORS.—If the list of certified contractors**
18 **under this section does not include any con-**
19 **tractors who can begin work on the security**
20 **enhancements or technical assistance within**
21 **60 days after applicant notification, the non-**
22 **profit organization may submit a contractor**
23 **not currently on the list to the Secretary for**
24 **the Secretary's review. If the Secretary does**
25 **not include the submitted contractor on the**

1 list of certified contractors within 60 days
2 after the submission and does not place an al-
3 ternative contractor on the list within the
4 same time period (who would be available to
5 begin the specified work within that 60-day
6 period), the Secretary shall immediately place
7 the submitted contractor on the list of cer-
8 tified contractors and such contractor shall
9 remain on such list until—

10 [“(1) the specified work is completed;

11 or

12 [“(2) the Secretary can show cause
13 why such contractor may not retain cer-
14 tification, with such determinations sub-
15 ject to review by the Comptroller General
16 of the United States.

17 [“(h) CONTRACTS.—Upon selecting a cer-
18 tified contractor to provide security enhance-
19 ments and technical assistance approved by
20 the Secretary under this title, the nonprofit
21 organization shall notify the Secretary of
22 such selection. The Secretary shall deliver a
23 contract to such contractor within 10 busi-
24 ness days after such notification.

1 **[(i) CONTRACTS FOR ADDITIONAL WORK OR**
2 **UPGRADES.—A nonprofit organization, using**
3 **its own funds, may enter into an additional**
4 **contract with the certified contractor, for ad-**
5 **ditional or upgraded security enhancements**
6 **or technical assistance. Such additional con-**
7 **tracts shall be separate contracts between the**
8 **nonprofit organization and the contractor.**

9 **[(j) EXPEDITING ASSISTANCE.—In order to**
10 **expedite assistance to nonprofit organiza-**
11 **tions, the Secretary shall—**

12 **[(1) compile a list of approved tech-**
13 **nical assistance and security enhance-**
14 **ment activities within 45 days after the**
15 **date of enactment of this title;**

16 **[(2) publish in the Federal Register**
17 **within 60 days after such date of enact-**
18 **ment a request for contractors to submit**
19 **applications to be placed on the list of**
20 **certified contractors under this section;**

21 **[(3) after consultation with the Sec-**
22 **retary of the Treasury, publish in the**
23 **Federal Register within 60 days after**
24 **such date of enactment, prescribe regula-**
25 **tions setting forth the conditions under**

1 **which loan guarantees shall be issued**
2 **under this title, including application**
3 **procedures, expeditious review of appli-**
4 **cations, underwriting criteria, assign-**
5 **ment of loan guarantees, modifications,**
6 **commercial validity, defaults, and fees;**
7 **and**

8 **[(4) publish in the Federal Register**
9 **within 120 days after such date of enact-**
10 **ment (and every 30 days thereafter) a list**
11 **of certified contractors, including those**
12 **selected by State Homeland Security Au-**
13 **thorities, county, and local officials, with**
14 **coverage of all 50 States, the District of**
15 **Columbia, and the territories.**

16 **["SEC. 1908. LOCAL LAW ENFORCEMENT ASSISTANCE**
17 **GRANTS.**

18 **[(a) IN GENERAL.—The Secretary may**
19 **provide grants to units of local government to**
20 **offset incremental costs associated with law**
21 **enforcement in areas where there is a high**
22 **concentration of nonprofit organizations.**

23 **[(b) USE.—Grant funds received under**
24 **this section may be used only for personnel**

1 costs or for equipment needs specifically re-
2 lated to such incremental costs.

3 **[(c) MAXIMIZATION OF IMPACT.—The Sec-**
4 **retary shall award grants in such amounts as**
5 **to maximize the impact of available funds in**
6 **protecting nonprofit organizations nation-**
7 **wide from international terrorist attacks.**

8 **["SEC. 1909. OFFICE OF COMMUNITY RELATIONS AND CIVIC**
9 **AFFAIRS.**

10 **[(a) IN GENERAL.—There is established**
11 **within the Department, the Office of Commu-**
12 **nity Relations and Civic Affairs to administer**
13 **grant programs for nonprofit organizations**
14 **and local law enforcement assistance.**

15 **[(b) ADDITIONAL RESPONSIBILITIES.—The**
16 **Office of Community Relations and Civic Af-**
17 **fairs shall—**

18 **["(1) coordinate community relations**
19 **efforts of the Department;**

20 **["(2) serve as the official liaison of**
21 **the Secretary to the nonprofit, human**
22 **and social services, and faith-based com-**
23 **munities; and**

1 **[(3) assist in coordinating the needs**
2 **of those communities with the Citizen**
3 **Corps program.**

4 **["SEC. 1910. AUTHORIZATION OF APPROPRIATIONS AND**
5 **LOAN GUARANTEES.**

6 **[(a) NONPROFIT ORGANIZATIONS PRO-**
7 **GRAM.—There are authorized to be appro-**
8 **priated to the Department to carry out the**
9 **nonprofit organization program under this**
10 **title, \$100,000,000 for fiscal year 2005 and such**
11 **sums as may be necessary for fiscal years 2006**
12 **and 2007.**

13 **[(b) LOCAL LAW ENFORCEMENT ASSISTANCE**
14 **GRANTS.—There are authorized to be appro-**
15 **priated to the Department for local law en-**
16 **forcement assistance grants under section**
17 **1908, \$50,000,000 for fiscal year 2005 and such**
18 **sums as may be necessary for fiscal years 2006**
19 **and 2007.**

20 **[(c) OFFICE OF COMMUNITY RELATIONS AND**
21 **CIVIC AFFAIRS.—There are authorized to be**
22 **appropriated to the Department for the Office**
23 **of Community Relations and Civic Affairs**
24 **under section 1909, \$5,000,000 for fiscal year**

1 2005 and such sums as may be necessary for
 2 fiscal years 2006 and 2007.

3 **[(d) LOAN GUARANTEES.—**

4 **[(1) AUTHORIZATION OF APPROPRIA-**
 5 **TIONS.—**There are authorized to be appro-
 6 priated in each of fiscal years 2005, 2006,
 7 and 2007, such amounts as may be re-
 8 quired under the Federal Credit Act with
 9 respect to Federal loan guarantees au-
 10 thorized by this title, which shall remain
 11 available until expended.

12 **[(2) LIMITATION.—**The aggregate
 13 value of all loans for which loan guaran-
 14 tees are issued under this title by the
 15 Secretary may not exceed \$250,000,000 in
 16 each of fiscal years 2005, 2006, and 2007.”.

17 **[(d) CLERICAL AMENDMENT.—**The table of
 18 contents under section 1(b) of the Homeland
 19 Security Act of 2002 (6 U.S.C. 101(b)) is amend-
 20 ed by adding at the end the following:

**[(“TITLE XIX—PROTECTION OF CITIZENS AT HIGH-RISK
 NONPROFIT ORGANIZATIONS**

[(“Sec. 1901. Definitions.

**[(“Sec. 1902. Authority to enter into contracts and issue Fed-
 eral loan guarantees.**

[(“Sec. 1903. Eligibility criteria.

[(“Sec. 1904. Use of loan guarantees.

[(“Sec. 1905. Nonprofit organization applications.

[(“Sec. 1906. Review by State Homeland Security Authorities.

["Sec. 1907. Security enhancement and technical assistance contracts and loan guarantees.

["Sec. 1908. Local law enforcement assistance grants.

["Sec. 1909. Office of Community Relations and Civic Affairs.

["Sec. 1910. Authorization of appropriations and loan guarantees.".

1 **[Subtitle C—Restructuring Relat-**
2 **ing to the Department of Home-**
3 **land Security and Congressional**
4 **Oversight**

5 **[SEC. 5025. RESPONSIBILITIES OF counternarcotics OFFICE.**

6 **[(a) AMENDMENT.—Section 878 of the**
7 **Homeland Security Act of 2002 (6 U.S.C. 458)**
8 **is amended to read as follows:**

9 **["SEC. 878. OFFICE OF counternarcotics ENFORCEMENT.**

10 **["(a) OFFICE.—There shall be in the De-**
11 **partment an Office of counternarcotics En-**
12 **forcement, which shall be headed by a Direc-**
13 **tor appointed by the President, by and with**
14 **the advice and consent of the Senate.**

15 **["(b) ASSIGNMENT OF PERSONNEL.—(1) The**
16 **Secretary shall assign to the Office perma-**
17 **nent staff and other appropriate personnel**
18 **detailed from other subdivisions of the De-**
19 **partment to carry out responsibilities under**
20 **this section.**

21 **["(2) The Secretary shall designate senior**
22 **employees from each appropriate subdivision**

1 of the Department that has significant
2 counternarcotics responsibilities to act as a li-
3 aison between that subdivision and the Office
4 of counternarcotics Enforcement.

5 **[(c) LIMITATION ON CONCURRENT EMPLOY-**
6 **MENT.—Except as provided in subsection (d),**
7 **the Director of the Office of counternarcotics**
8 **Enforcement shall not be employed by, as-**
9 **signed to, or serve as the head of, any other**
10 **branch of the Federal Government, any State**
11 **or local government, or any subdivision of the**
12 **Department other than the Office of counter-**
13 **narcotics Enforcement.**

14 **[(d) ELIGIBILITY TO SERVE AS THE UNITED**
15 **STATES INTERDICTION COORDINATOR.—The Di-**
16 **rector of the Office of counternarcotics En-**
17 **forcement may be appointed as the United**
18 **States Interdiction Coordinator by the Direc-**
19 **tor of the Office of National Drug Control Pol-**
20 **icy, and shall be the only person at the De-**
21 **partment eligible to be so appointed.**

22 **[(e) RESPONSIBILITIES.—The Secretary**
23 **shall direct the Director of the Office of**
24 **counternarcotics Enforcement—**

1 **[(1) to coordinate policy and oper-**
2 **ations within the Department, between**
3 **the Department and other Federal de-**
4 **partments and agencies, and between the**
5 **Department and State and local agencies**
6 **with respect to stopping the entry of ille-**
7 **gal drugs into the United States;**

8 **[(2) to ensure the adequacy of re-**
9 **sources within the Department for stop-**
10 **ping the entry of illegal drugs into the**
11 **United States;**

12 **[(3) to recommend the appropriate**
13 **financial and personnel resources nec-**
14 **essary to help the Department better ful-**
15 **fill its responsibility to stop the entry of**
16 **illegal drugs into the United States;**

17 **[(4) within the JTTF construct to**
18 **track and sever connections between ille-**
19 **gal drug trafficking and terrorism; and**

20 **[(5) to be a representative of the De-**
21 **partment on all task forces, committees,**
22 **or other entities whose purpose is to co-**
23 **ordinate the counternarcotics enforce-**
24 **ment activities of the Department and**
25 **other Federal, state or local agencies.**

1 **[(f) REPORTS TO CONGRESS.—**

2 **[(1) ANNUAL BUDGET REVIEW.—The Di-**
3 **rector of the Office of counternarcotics**
4 **Enforcement shall, not later than 30 days**
5 **after the submission by the President to**
6 **Congress of any request for expenditures**
7 **for the Department, submit to the Com-**
8 **mittees on Appropriations and the au-**
9 **thorizing committees of jurisdiction of**
10 **the House of Representatives and the**
11 **Senate a review and evaluation of such**
12 **request. The review and evaluation**
13 **shall—**

14 **[(A) identify any request or sub-**
15 **part of any request that affects or**
16 **may affect the counternarcotics ac-**
17 **tivities of the Department or any of**
18 **its subdivisions, or that affects the**
19 **ability of the Department or any sub-**
20 **division of the Department to meet its**
21 **responsibility to stop the entry of ille-**
22 **gal drugs into the United States;**

23 **[(B) describe with particularity**
24 **how such requested funds would be**

1 or could be expended in furtherance
2 of counternarcotics activities; and

3 [(C) compare such requests with
4 requests for expenditures and
5 amounts appropriated by Congress in
6 the previous fiscal year.

7 [(2) EVALUATION OF COUNTER-
8 NARCOTICS ACTIVITIES.—The Director of
9 the Office of counternarcotics Enforce-
10 ment shall, not later than February 1 of
11 each year, submit to the Committees on
12 Appropriations and the authorizing com-
13 mittees of jurisdiction of the House of
14 Representatives and the Senate a review
15 and evaluation of the counternarcotics
16 activities of the Department for the pre-
17 vious fiscal year. The review and evalua-
18 tion shall—

19 [(A) describe the counter-
20 narcotics activities of the Department
21 and each subdivision of the Depart-
22 ment (whether individually or in co-
23 operation with other subdivisions of
24 the Department, or in cooperation
25 with other branches of the Federal

1 **Government or with State or local**
2 **agencies), including the methods, pro-**
3 **cedures, and systems (including com-**
4 **puter systems) for collecting, ana-**
5 **lyzing, sharing, and disseminating in-**
6 **formation concerning narcotics activ-**
7 **ity within the Department and be-**
8 **tween the Department and other Fed-**
9 **eral, State, and local agencies;**

10 **[(B) describe the results of those**
11 **activities, using quantifiable data**
12 **whenever possible;**

13 **[(C) state whether those activi-**
14 **ties were sufficient to meet the re-**
15 **sponsibility of the Department to stop**
16 **the entry of illegal drugs into the**
17 **United States, including a description**
18 **of the performance measures of effec-**
19 **tiveness that were used in making**
20 **that determination; and**

21 **[(D) recommend, where appro-**
22 **priate, changes to those activities to**
23 **improve the performance of the De-**
24 **partment in meeting its responsibility**

1 to stop the entry of illegal drugs into
2 the United States.

3 **[(3) CLASSIFIED OR LAW ENFORCEMENT**
4 **SENSITIVE INFORMATION.—Any content of a**
5 **review and evaluation described in the**
6 **reports required in this subsection that**
7 **involves information classified under cri-**
8 **teria established by an Executive order,**
9 **or whose public disclosure, as deter-**
10 **mined by the Secretary, would be detri-**
11 **mental to the law enforcement or na-**
12 **tional security activities of the Depart-**
13 **ment or any other Federal, State, or local**
14 **agency, shall be presented to Congress**
15 **separately from the rest of the review**
16 **and evaluation.”.**

17 **[(b) CONFORMING AMENDMENT.—Section**
18 **103(a) of the Homeland Security Act of 2002**
19 **(6 U.S.C. 113(a)) is amended—**

20 **[(1) by redesignating paragraphs (8)**
21 **and (9) as paragraphs (9) and (10), respec-**
22 **tively; and**

23 **[(2) by inserting after paragraph (7)**
24 **the following new paragraph (8):**

1 **[(8) A Director of the Office of**
2 **counternarcotics Enforcement.”.**

3 **[(c) AUTHORIZATION OF APPROPRIATIONS.—**
4 **Of the amounts appropriated for the Depart-**
5 **ment of Homeland Security for Departmental**
6 **management and operations for fiscal year**
7 **2005, there is authorized up to \$6,000,000 to**
8 **carry out section 878 of the Department of**
9 **Homeland Security Act of 2002 (as amended**
10 **by this section).**

11 **[SEC. 5026. USE OF counternarcotics ENFORCEMENT ACTIVI-**
12 **TIES IN CERTAIN EMPLOYEE PERFORMANCE**
13 **APPRAISALS.**

14 **[(a) IN GENERAL.—Subtitle E of title VIII of**
15 **the Homeland Security Act of 2002 (6 U.S.C.**
16 **411 and following) is amended by adding at**
17 **the end the following:**

18 **["SEC. 843. USE OF counternarcotics ENFORCEMENT ACTIVI-**
19 **TIES IN CERTAIN EMPLOYEE PERFORMANCE**
20 **APPRAISALS.**

21 **[(a) IN GENERAL.—Each subdivision of**
22 **the Department that is a National Drug Con-**
23 **trol Program Agency shall include as one of**
24 **the criteria in its performance appraisal sys-**
25 **tem, for each employee directly or indirectly**

1 involved in the enforcement of Federal, State,
2 or local narcotics laws, the performance of
3 that employee with respect to the enforce-
4 ment of Federal, State, or local narcotics laws,
5 relying to the greatest extent practicable on
6 objective performance measures, including—

7 [“(1) the contribution of that em-
8 ployee to seizures of narcotics and ar-
9 rests of violators of Federal, State, or
10 local narcotics laws; and

11 [“(2) the degree to which that em-
12 ployee cooperated with or contributed to
13 the efforts of other employees, either
14 within the Department or other Federal,
15 State, or local agencies, in counter-
16 narcotics enforcement.

17 [“(b) DEFINITIONS.—For purposes of this
18 section—

19 [“(1) the term ‘National Drug Control
20 Program Agency’ means—

21 [“(A) a National Drug Control
22 Program Agency, as defined in sec-
23 tion 702(7) of the Office of National
24 Drug Control Policy Reauthorization
25 Act of 1998 (as last in effect); and

1 **[(“B) any subdivision of the De-**
2 **partment that has a significant**
3 **counternarcotics responsibility, as**
4 **determined by—**

5 **[(“i) the counternarcotics offi-**
6 **cer, appointed under section 878;**
7 **or**

8 **[(“ii) if applicable, the**
9 **counternarcotics officer’s suc-**
10 **cessor in function (as determined**
11 **by the Secretary); and**

12 **[(“2) the term ‘performance appraisal**
13 **system’ means a system under which**
14 **periodic appraisals of job performance of**
15 **employees are made, whether under**
16 **chapter 43 of title 5, United States Code,**
17 **or otherwise.”.**

18 **[(b) CLERICAL AMENDMENT.—The table of**
19 **contents for the Homeland Security Act of**
20 **2002 is amended by inserting after the item**
21 **relating to section 842 the following:**

[(“Sec. 843. Use of counternarcotics enforcement activities in
 certain employee performance appraisals.”.

1 [SEC. 5027. SENSE OF THE HOUSE OF REPRESENTATIVES
2 ON ADDRESSING HOMELAND SECURITY FOR
3 THE AMERICAN PEOPLE.

4 [(a) FINDINGS.—The House of Representa-
5 tives finds that—

6 [(1) the House of Representatives cre-
7 ated a Select Committee on Homeland Se-
8 curity at the start of the 108th Congress
9 to provide for vigorous congressional
10 oversight for the implementation and op-
11 eration of the Department of Homeland
12 Security;

13 [(2) the House of Representatives also
14 charged the Select Committee on Home-
15 land Security, including its Sub-
16 committee on Rules, with undertaking a
17 thorough and complete study of the oper-
18 ation and implementation of the rules of
19 the House, including the rule governing
20 committee jurisdiction, with respect to
21 the issue of homeland security and to
22 make their recommendations to the Com-
23 mittee on Rules;

24 [(3) on February 11, 2003, the Com-
25 mittee on Appropriations of the House of
26 Representatives created a new Sub-

1 committee on Homeland Security with ju-
2 risdiction over the Transportation Secu-
3 rity Administration, the Coast Guard, and
4 other entities within the Department of
5 Homeland Security to help address the
6 integration of the Department of Home-
7 land Security's 22 legacy agencies; and

8 [(4) during the 108th Congress, the
9 House of Representatives has taken sev-
10 eral steps to help ensure its continuity in
11 the event of a terrorist attack, includ-
12 ing—

13 [(A) adopting H.R. 2844, the Con-
14 tinuity of Representation Act, a bill to
15 require States to hold expedited spe-
16 cial elections to fill vacancies in the
17 House of Representatives not later
18 than 45 days after the vacancy is an-
19 nounced by the Speaker in extraor-
20 dinary circumstances;

21 [(B) granting authority for joint-
22 leadership recalls from a period of
23 adjournment to an alternate place;

1 **[(C) allowing for anticipatory**
2 **consent with the Senate to assemble**
3 **in an alternate place;**

4 **[(D) establishing the requirement**
5 **that the Speaker submit to the Clerk**
6 **a list of Members in the order in**
7 **which each shall act as Speaker pro**
8 **tempore in the case of a vacancy in**
9 **the Office of Speaker (including phys-**
10 **ical inability of the Speaker to dis-**
11 **charge his duties) until the election**
12 **of a Speaker or a Speaker pro tem-**
13 **pore, exercising such authorities of**
14 **the Speaker as may be necessary and**
15 **appropriate to that end;**

16 **[(E) granting authority for the**
17 **Speaker to declare an emergency re-**
18 **cess of the House subject to the call**
19 **of the Chair when notified of an im-**
20 **minent threat to the safety of the**
21 **House;**

22 **[(F) granting authority for the**
23 **Speaker, during any recess or ad-**
24 **journment of not more than three**
25 **days, in consultation with the Minor-**

1 ity Leader, to postpone the time for
2 reconvening or to reconvene before
3 the time previously appointed solely
4 to declare the House in recess, in
5 each case within the constitutional
6 three-day limit;

7 [(G) establishing the authority for
8 the Speaker to convene the House in
9 an alternate place within the seat of
10 Government; and

11 [(H) codifying the long-standing
12 practice that the death, resignation,
13 expulsion, disqualification, or re-
14 moval of a Member results in an ad-
15 justment of the quorum of the House,
16 which the Speaker shall announce to
17 the House and which shall not be sub-
18 ject to appeal.

19 **[(b) SENSE OF THE HOUSE.—**It is the sense
20 of the House of Representatives that the Com-
21 mittee on Rules should act upon the rec-
22 ommendations provided by the Select Com-
23 mittee on Homeland Security, and other com-
24 mittees of existing jurisdiction, regarding the
25 jurisdiction over proposed legislation, mes-

1 sages, petitions, memorials and other matters
2 relating to homeland security prior to or at
3 the start of the 109th Congress.

4 **[Subtitle D—Improvements to**
5 **Information Security**

6 **[SEC. 5031. AMENDMENTS TO CLINGER-COHEN PROVISIONS**
7 **TO ENHANCE AGENCY PLANNING FOR INFOR-**
8 **MATION SECURITY NEEDS.**

9 **[Chapter 113 of title 40, United States**
10 **Code, is amended—**

11 **[(1) in section 11302(b), by inserting**
12 **“security,” after “use,”;**

13 **[(2) in section 11302(c), by inserting “,**
14 **including information security risks,”**
15 **after “risks” both places it appears;**

16 **[(3) in section 11312(b)(1), by striking**
17 **“information technology investments”**
18 **and inserting “investments in informa-**
19 **tion technology (including information**
20 **security needs)”; and**

21 **[(4) in section 11315(b)(2), by insert-**
22 **ing “, secure,” after “sound”.**

1 **[Subtitle E—Personnel**
2 **Management Improvements**

3 **[CHAPTER 1—APPOINTMENTS PROCESS**
4 **REFORM**

5 **[SEC. 5041. APPOINTMENTS TO NATIONAL SECURITY POSI-**
6 **TIONS.**

7 **[(a) DEFINITION OF NATIONAL SECURITY PO-**
8 **SITION.—For purposes of this section, the term**
9 **“national security position” shall include—**

10 **[(1) those positions that involve ac-**
11 **tivities of the United States Government**
12 **that are concerned with the protection of**
13 **the Nation from foreign aggression, ter-**
14 **rorism, or espionage, including develop-**
15 **ment of defense plans or policies, intel-**
16 **ligence or counterintelligence activities,**
17 **and related activities concerned with the**
18 **preservation of military strength of the**
19 **United States and protection of the home-**
20 **land; and**

21 **[(2) positions that require regular use**
22 **of, or access to, classified information.**

23 **[(b) PUBLICATION IN THE FEDERAL REG-**
24 **ISTER.—Not later than 60 days after the effec-**
25 **tive date of this section, the Director of the**

1 **Office of Personnel Management shall publish**
2 **in the Federal Register a list of offices that**
3 **constitute national security positions under**
4 **section (a) for which Senate confirmation is**
5 **required by law, and the Director shall revise**
6 **such list from time to time as appropriate.**

7 **[(c) PRESIDENTIAL APPOINTMENTS.—(1)**
8 **With respect to appointment of individuals to**
9 **offices identified under section (b) and listed**
10 **in sections 5315 or 5316 of title 5, United**
11 **States Code, which shall arise after the publi-**
12 **cation of the list required by section (b), and**
13 **notwithstanding any other provision of law,**
14 **the advice and consent of the Senate shall not**
15 **be required, but rather such appointment**
16 **shall be made by the President alone.**

17 **[(2) With respect to appointment of indi-**
18 **viduals to offices identified under section (b)**
19 **and listed in sections 5313 or 5314 of title 5,**
20 **United States Code, which shall arise after**
21 **the publication of the list required by section**
22 **(b), and notwithstanding any other provision**
23 **of law, the advice and consent of the Senate**
24 **shall be required, except that if 30 legislative**
25 **days shall have expired from the date on**

1 which a nomination is submitted to the Sen-
2 ate without a confirmation vote occurring in
3 the Senate, such appointment shall be made
4 by the President alone.

5 [(3) For the purposes of this subsection,
6 the term “legislative day” means a day on
7 which the Senate is in session.

8 [SEC. 5042. PRESIDENTIAL INAUGURAL TRANSITIONS.

9 [Subsections (a) and (b) of section 3349a
10 of title 5, United States Code, are amended to
11 read as follows:

12 [“(a) As used in this section—

13 [“(1) the term ‘inauguration day’
14 means the date on which any person
15 swears or affirms the oath of office as
16 President; and

17 [“(2) the term ‘specified national se-
18 curity position’ shall mean not more than
19 20 positions requiring Senate confirma-
20 tion, not to include more than 3 heads of
21 Executive Departments, which are des-
22 ignated by the President on or after an
23 inauguration day as positions for which
24 the duties involve substantial responsi-
25 bility for national security.

1 **[(b) With respect to any vacancy that ex-**
2 **ists during the 60-day period beginning on an**
3 **inauguration day, except where the person**
4 **swearing or affirming the oath of office was**
5 **the President on the date preceding the date**
6 **of swearing or affirming such oath of office,**
7 **the 210-day period under section 3346 or 3348**
8 **shall be deemed to begin on the later of the**
9 **date occurring—**

10 **[(1) 90 days after such transitional**
11 **inauguration day; or**

12 **[(2) 90 days after the date on which**
13 **the vacancy occurs.**

14 **[(c) With respect to any vacancy in any**
15 **specified national security position that exists**
16 **during the 60-day period beginning on an in-**
17 **auguration day, the requirements of subpara-**
18 **graphs (A) and (B) of section 3345(a)(3) shall**
19 **not apply.”.**

20 **[SEC. 5043. PUBLIC FINANCIAL DISCLOSURE FOR THE IN-**
21 **TELLIGENCE COMMUNITY.**

22 **[(a) IN GENERAL.—The Ethics in Govern-**
23 **ment Act of 1978 (5 U.S.C. App.) is amended**
24 **by inserting before title IV the following:**

1 **[“TITLE III—INTELLIGENCE PER-**
2 **SONNEL FINANCIAL DISCLO-**
3 **SURE REQUIREMENTS**

4 **[“SEC. 301. PERSONS REQUIRED TO FILE.**

5 **[“(a) Within 30 days of assuming the posi-**
6 **tion of an officer or employee described in**
7 **subsection (e), an individual shall file a report**
8 **containing the information described in sec-**
9 **tion 302(b) unless the individual has left an-**
10 **other position described in subsection (e)**
11 **within 30 days prior to assuming such new po-**
12 **sition or has already filed a report under this**
13 **title with respect to nomination for the new**
14 **position or as a candidate for the position.**

15 **[“(b)(1) Within 5 days of the transmittal**
16 **by the President to the Senate of the nomina-**
17 **tion of an individual to a position in the exec-**
18 **utive branch, appointment to which requires**
19 **the advice and consent of the Senate, such in-**
20 **dividual shall file a report containing the in-**
21 **formation described in section 302(b). Such**
22 **individual shall, not later than the date of the**
23 **first hearing to consider the nomination of**
24 **such individual, make current the report filed**
25 **pursuant to this paragraph by filing the infor-**

1 mation required by section 302(a)(1)(A) with
2 respect to income and honoraria received as
3 of the date which occurs 5 days before the
4 date of such hearing. Nothing in this Act shall
5 prevent any congressional committee from re-
6 questing, as a condition of confirmation, any
7 additional financial information from any
8 Presidential nominee whose nomination has
9 been referred to that committee.

10 [“(2) An individual whom the President or
11 the President-elect has publicly announced he
12 intends to nominate to a position may file the
13 report required by paragraph (1) at any time
14 after that public announcement, but not later
15 than is required under the first sentence of
16 such paragraph.

17 [“(c) Any individual who is an officer or
18 employee described in subsection (e) during
19 any calendar year and performs the duties of
20 his position or office for a period in excess of
21 60 days in that calendar year shall file on or
22 before May 15 of the succeeding year a report
23 containing the information described in sec-
24 tion 302(a).

1 **[(d) Any individual who occupies a posi-**
2 **tion described in subsection (e) shall, on or**
3 **before the 30th day after termination of em-**
4 **ployment in such position, file a report con-**
5 **taining the information described in section**
6 **302(a) covering the preceding calendar year if**
7 **the report required by subsection (c) has not**
8 **been filed and covering the portion of the cal-**
9 **endar year in which such termination occurs**
10 **up to the date the individual left such office**
11 **or position, unless such individual has accept-**
12 **ed employment in or takes the oath of office**
13 **for another position described in subsection**
14 **(e) or section 101(f).**

15 **[(e) The officers and employees referred**
16 **to in subsections (a), (c), and (d) are those em-**
17 **ployed in or under—**

18 **[(1) the Office of the National Intel-**
19 **ligence Director; or**

20 **[(2) an element of the intelligence**
21 **community, as defined in section 3(4) of**
22 **the National Security Act of 1947 (50**
23 **U.S.C. 401a(4)).**

24 **[(f)(1) Reasonable extensions of time for**
25 **filing any report may be granted under proce-**

1 dures prescribed by the Office of Government
2 Ethics, but the total of such extensions shall
3 not exceed 90 days.

4 [“(2)(A) In the case of an individual who
5 is serving in the Armed Forces, or serving in
6 support of the Armed Forces, in an area while
7 that area is designated by the President by
8 Executive order as a combat zone for pur-
9 poses of section 112 of the Internal Revenue
10 Code of 1986, the date for the filing of any re-
11 port shall be extended so that the date is 180
12 days after the later of—

13 [“(i) the last day of the individual’s
14 service in such area during such des-
15 ignated period; or

16 [“(ii) the last day of the individual’s
17 hospitalization as a result of injury re-
18 ceived or disease contracted while serv-
19 ing in such area.

20 [“(B) The Office of Government Ethics, in
21 consultation with the Secretary of Defense,
22 may prescribe procedures under this para-
23 graph.

24 [“(g) The Director of the Office of Govern-
25 ment Ethics may grant a publicly available re-

1 **quest for a waiver of any reporting require-**
2 **ment under this title with respect to an indi-**
3 **vidual if the Director determines that—**

4 **[(1) such individual is not a full-time**
5 **employee of the Government;**

6 **[(2) such individual is able to pro-**
7 **vide special services needed by the Gov-**
8 **ernment;**

9 **[(3) it is unlikely that such individ-**
10 **ual’s outside employment or financial in-**
11 **terests will create a conflict of interest;**
12 **and**

13 **[(4) public financial disclosure by**
14 **such individual is not necessary in the**
15 **circumstances.**

16 **[(h)(1) The Director of the Office of Gov-**
17 **ernment Ethics may establish procedures**
18 **under which an incoming individual can take**
19 **actions to avoid conflicts of interest while in**
20 **office if the individual has holdings or other**
21 **financial interests that raise conflict con-**
22 **cerns.**

23 **[(2) The actions referenced in paragraph**
24 **(1) may include, but are not limited to, signed**
25 **agreements with the individual’s employing**

1 agency, the establishment of blind trusts, or
2 requirements for divesting interests or hold-
3 ings while in office.

4 [“SEC. 302. CONTENTS OF REPORTS.

5 [“(a) Each report filed pursuant to section
6 301 (c) and (d) shall include a full and com-
7 plete statement with respect to the following:

8 [“(1)(A) The source, description, and
9 category of value of income (other than
10 income referred to in subparagraph (B))
11 from any source (other than from current
12 employment by the United States Govern-
13 ment), received during the preceding cal-
14 endar year, aggregating more than \$500
15 in value, except that honoraria received
16 during Government service by an officer
17 or employee shall include, in addition to
18 the source, the exact amount and the
19 date it was received.

20 [“(B) The source and description of
21 investment income which may include
22 but is not limited to dividends, rents, in-
23 terest, and capital gains, received during
24 the preceding calendar year which ex-
25 ceeds \$500 in amount or value.

1 **[(C) The categories for reporting the**
2 **amount for income covered in subpara-**
3 **graphs (A) and (B) are—**

4 **[(i) greater than \$500 but not**
5 **more than \$20,000;**

6 **[(ii) greater than \$20,000 but not**
7 **more than \$100,000;**

8 **[(iii) greater than \$100,000 but**
9 **not more than \$1,000,000;**

10 **[(iv) greater than \$1,000,000 but**
11 **not more than \$2,500,000; and**

12 **[(v) greater than \$2,500,000.**

13 **[(2)(A) The identity of the source, a**
14 **brief description, and the value of all**
15 **gifts aggregating more than the minimal**
16 **value as established by section 7342(a)(5)**
17 **of title 5, United States Code, or \$250,**
18 **whichever is greater, received from any**
19 **source other than a relative of the report-**
20 **ing individual during the preceding cal-**
21 **endar year, except that any food, lodging,**
22 **or entertainment received as personal**
23 **hospitality of an individual need not be**
24 **reported, and any gift with a fair market**
25 **value of \$100 or less, as adjusted at the**

1 same time and by the same percentage as
2 the minimal value is adjusted, need not
3 be aggregated for purposes of this sub-
4 paragraph.

5 [“(B) The identity of the source and a
6 brief description (including dates of trav-
7 el and nature of expenses provided) of re-
8 imbursements received from any source
9 aggregating more than the minimal value
10 as established by section 7342(a)(5) of
11 title 5, United States Code, or \$250,
12 whichever is greater and received during
13 the preceding calendar year.

14 [“(3) The identity and category of
15 value of any interest in property held
16 during the preceding calendar year in a
17 trade or business, or for investment or
18 the production of income, which has a
19 fair market value which exceeds \$5,000 as
20 of the close of the preceding calendar
21 year, excluding any personal liability
22 owed to the reporting individual by a
23 spouse, or by a parent, brother, sister, or
24 child of the reporting individual or of the
25 reporting individual’s spouse, or any de-

1 **posit accounts aggregating \$100,000 or**
2 **less in a financial institution, or any Fed-**
3 **eral Government securities aggregating**
4 **\$100,000 or less.**

5 **[(4) The identity and category of**
6 **value of the total liabilities owed to any**
7 **creditor other than a spouse, or a parent,**
8 **brother, sister, or child of the reporting**
9 **individual or of the reporting individual's**
10 **spouse which exceed \$20,000 at any time**
11 **during the preceding calendar year, ex-**
12 **cluding—**

13 **[(A) any mortgage secured by**
14 **real property which is a personal res-**
15 **idence of the reporting individual or**
16 **his spouse; and**

17 **[(B) any loan secured by a per-**
18 **sonal motor vehicle, household fur-**
19 **niture, or appliances, which loan does**
20 **not exceed the purchase price of the**
21 **item which secures it.**

22 **With respect to revolving charge ac-**
23 **counts, only those with an outstanding li-**
24 **ability which exceeds \$20,000 as of the**
25 **close of the preceding calendar year need**

1 be reported under this paragraph. Not-
2 withstanding the preceding sentence, in-
3 dividuals required to file pursuant to sec-
4 tion 301(b) shall also report the aggregate
5 sum of the outstanding balances of all re-
6 volving charge accounts as of any date
7 that is within 30 days of the date of filing
8 if the aggregate sum of those balances ex-
9 ceeds \$20,000.

10 [“(5) Except as provided in this para-
11 graph, a brief description of any real
12 property, other than property used solely
13 as a personal residence of the reporting
14 individual or his spouse, or stocks, bonds,
15 commodities futures, and other forms of
16 securities, if—

17 [“(A) purchased, sold, or ex-
18 changed during the preceding cal-
19 endar year;

20 [“(B) the value of the transaction
21 exceeded \$5,000; and

22 [“(C) the property or security is
23 not already required to be reported
24 as a source of income pursuant to

1 paragraph (1)(B) or as an asset pursu-
2 ant to paragraph (3).

3 [“(6)(A) The identity of all positions
4 held on or before the date of filing during
5 the current calendar year (and, for the
6 first report filed by an individual, during
7 the 1-year period preceding such cal-
8 endar year) as an officer, director, trust-
9 ee, partner, proprietor, representative,
10 employee, or consultant of any corpora-
11 tion, company, firm, partnership, or other
12 business enterprise, any nonprofit orga-
13 nization, any labor organization, or any
14 educational or other institution other
15 than the United States Government. This
16 subparagraph shall not require the re-
17 porting of positions held in any religious,
18 social, fraternal, or political entity and
19 positions solely of an honorary nature.

20 [“(B) If any person, other than a per-
21 son reported as a source of income under
22 paragraph (1)(A) or the United States
23 Government, paid a nonelected reporting
24 individual compensation in excess of
25 \$25,000 in the calendar year in which, or

1 the calendar year prior to the calendar
2 year in which, the individual files his
3 first report under this title, the indi-
4 vidual shall include in the report—

5 [“(i) the identity of each source of
6 such compensation; and

7 [“(ii) a brief description of the na-
8 ture of the duties performed or serv-
9 ices rendered by the reporting indi-
10 vidual for each such source.

11 The preceding sentence shall not require
12 any individual to include in such report
13 any information which is considered con-
14 fidential as a result of a privileged rela-
15 tionship, established by law, between
16 such individual and any person or any in-
17 formation which the person for whom the
18 services are provided has a reasonable
19 expectation of privacy, nor shall it re-
20 quire an individual to report any infor-
21 mation with respect to any person for
22 whom services were provided by any firm
23 or association of which such individual
24 was a member, partner, or employee un-

1 less such individual was directly involved
2 in the provision of such services.

3 [“(7) A description of parties to and
4 terms of any agreement or arrangement
5 with respect to (A) future employment;
6 (B) a leave of absence during the period
7 of the reporting individual’s Government
8 service; (C) continuation of payments by
9 a former employer other than the United
10 States Government; and (D) continuing
11 participation in an employee welfare or
12 benefit plan maintained by a former em-
13 ployer. The description of any formal
14 agreement for future employment shall
15 include the date on which that agreement
16 was entered into.

17 [“(8) The category of the total cash
18 value of any interest of the reporting in-
19 dividual in a qualified blind trust.

20 [“(b)(1) Each report filed pursuant to sub-
21 sections (a) and (b) of section 301 shall in-
22 clude a full and complete statement with re-
23 spect to the information required by—

1 **[(A) paragraphs (1) and (6) of sub-**
2 **section (a) for the year of filing and the**
3 **preceding calendar year,**

4 **[(B) paragraphs (3) and (4) of sub-**
5 **section (a) as of the date specified in the**
6 **report but which is less than 31 days be-**
7 **fore the filing date, and**

8 **[(C) paragraph (7) of subsection (a)**
9 **as of the filing date but for periods de-**
10 **scribed in such paragraph.**

11 **[(2)(A) In lieu of filling out 1 or more**
12 **schedules of a financial disclosure form, an**
13 **individual may supply the required informa-**
14 **tion in an alternative format, pursuant to ei-**
15 **ther rules adopted by the Office of Govern-**
16 **ment Ethics or pursuant to a specific written**
17 **determination by the Director of the Office of**
18 **Government Ethics for a reporting individual.**

19 **[(B) In lieu of indicating the category of**
20 **amount or value of any item contained in any**
21 **report filed under this title, a reporting indi-**
22 **vidual may indicate the exact dollar amount**
23 **of such item.**

24 **[(c)(1) In the case of any individual re-**
25 **ferred to in section 301(c), the Office of Gov-**

1 ernment Ethics may by regulation require a
2 reporting period to include any period in
3 which the individual served as an officer or
4 employee described in section 301(e) and the
5 period would not otherwise be covered by any
6 public report filed pursuant to this title.

7 **[(2) In the case of any individual referred**
8 **to in section 301(d), any reference to the pre-**
9 **ceding calendar year shall be considered also**
10 **to include that part of the calendar year of fil-**
11 **ing up to the date of the termination of em-**
12 **ployment.**

13 **[(d)(1) The categories for reporting the**
14 **amount or value of the items covered in sub-**
15 **section (a)(3) are—**

16 **[(A) greater than \$5,000 but not**
17 **more than \$15,000;**

18 **[(B) greater than \$15,000 but not**
19 **more than \$100,000;**

20 **[(C) greater than \$100,000 but not**
21 **more than \$1,000,000;**

22 **[(D) greater than \$1,000,000 but not**
23 **more than \$2,500,000; and**

24 **[(E) greater than \$2,500,000.**

1 **[(2) For the purposes of subsection (a)(3)**
2 **if the current value of an interest in real prop-**
3 **erty (or an interest in a real estate partner-**
4 **ship) is not ascertainable without an ap-**
5 **praisal, an individual may list (A) the date of**
6 **purchase and the purchase price of the inter-**
7 **est in the real property, or (B) the assessed**
8 **value of the real property for tax purposes,**
9 **adjusted to reflect the market value of the**
10 **property used for the assessment if the as-**
11 **essed value is computed at less than 100 per-**
12 **cent of such market value, but such indi-**
13 **vidual shall include in his report a full and**
14 **complete description of the method used to**
15 **determine such assessed value, instead of**
16 **specifying a category of value pursuant to**
17 **paragraph (1). If the current value of any**
18 **other item required to be reported under sub-**
19 **section (a)(3) is not ascertainable without an**
20 **appraisal, such individual may list the book**
21 **value of a corporation whose stock is not pub-**
22 **licly traded, the net worth of a business part-**
23 **nership, the equity value of an individually**
24 **owned business, or with respect to other hold-**
25 **ings, any recognized indication of value, but**

1 such individual shall include in his report a
2 full and complete description of the method
3 used in determining such value. In lieu of any
4 value referred to in the preceding sentence,
5 an individual may list the assessed value of
6 the item for tax purposes, adjusted to reflect
7 the market value of the item used for the as-
8 sessment if the assessed value is computed at
9 less than 100 percent of such market value,
10 but a full and complete description of the
11 method used in determining such assessed
12 value shall be included in the report.

13 **[(3) The categories for reporting the**
14 **amount or value of the items covered in para-**
15 **graphs (4) and (8) of subsection (a) are—**

16 **[(A) greater than \$20,000 but not**
17 **more than \$100,000;**

18 **[(B) greater than \$100,000 but not**
19 **more than \$500,000;**

20 **[(C) greater than \$500,000 but not**
21 **more than \$1,000,000; and**

22 **[(D) greater than \$1,000,000.**

23 **[(e)(1) Except as provided in subpara-**
24 **graph (F), each report required by section 301**
25 **shall also contain information listed in para-**

1 **graphs (1) through (5) of subsection (a) re-**
2 **specting the spouse or dependent child of the**
3 **reporting individual as follows:**

4 **[(A) The sources of earned income**
5 **earned by a spouse including honoraria**
6 **which exceed \$500 except that, with re-**
7 **spect to earned income if the spouse is**
8 **self-employed in business or a profession,**
9 **only the nature of such business or pro-**
10 **fession need be reported.**

11 **[(B) All information required to be**
12 **reported in subsection (a)(1)(B) with re-**
13 **spect to investment income derived by a**
14 **spouse or dependent child.**

15 **[(C) In the case of any gifts received**
16 **by a spouse or dependent child which are**
17 **not received totally independent of the**
18 **relationship of the spouse or dependent**
19 **child to the reporting individual, the**
20 **identity of the source and a brief descrip-**
21 **tion of gifts of transportation, lodging,**
22 **food, or entertainment and a brief de-**
23 **scription and the value of other gifts.**

24 **[(D) In the case of any reimburse-**
25 **ments received by a spouse or dependent**

1 **child which are not received totally inde-**
2 **pendent of the relationship of the spouse**
3 **or dependent child to the reporting indi-**
4 **vidual, the identity of the source and a**
5 **brief description of each such reimburse-**
6 **ment.**

7 **[(E) In the case of items described in**
8 **paragraphs (3) through (5) of subsection**
9 **(a), all information required to be re-**
10 **ported under these paragraphs other**
11 **than items which the reporting indi-**
12 **vidual certifies (i) represent the spouse's**
13 **or dependent child's sole financial inter-**
14 **est or responsibility and which the re-**
15 **porting individual has no knowledge of,**
16 **(ii) are not in any way, past or present,**
17 **derived from the income, assets, or activi-**
18 **ties of the reporting individual, and (iii)**
19 **that he neither derives, nor expects to de-**
20 **rive, any financial or economic benefit.**

21 **[(F) Reports required by subsections**
22 **(a), (b), and (c) of section 301 shall, with**
23 **respect to the spouse and dependent**
24 **child of the reporting individual, only**

1 **contain information listed in paragraphs**
2 **(1), (3), and (4) of subsection (a).**

3 **[(“(2) No report shall be required with re-**
4 **spect to a spouse living separate and apart**
5 **from the reporting individual with the inten-**
6 **tion of terminating the marriage or providing**
7 **for permanent separation, or with respect to**
8 **any income or obligations of an individual**
9 **arising from the dissolution of his marriage or**
10 **the permanent separation from his spouse.**

11 **[(“f)(1) Except as provided in paragraph**
12 **(2), each reporting individual shall report the**
13 **information required to be reported pursuant**
14 **to subsections (a), (b), and (c) with respect to**
15 **the holdings of and the income from a trust**
16 **or other financial arrangement from which**
17 **income is received by, or with respect to**
18 **which a beneficial interest in principal or in-**
19 **come is held by, such individual, his spouse,**
20 **or any dependent child.**

21 **[(“(2) A reporting individual need not re-**
22 **port the holdings of or the source of income**
23 **from any of the holdings of—**

24 **[(“A) any qualified blind trust (as de-**
25 **finied in paragraph (3));**

1 **[“(B) a trust—**

2 **[“(i) which was not created di-**
3 **rectly by such individual, his spouse,**
4 **or any dependent child, and**

5 **[“(ii) the holdings or sources of**
6 **income of which such individual, his**
7 **spouse, and any dependent child have**
8 **no knowledge; or**

9 **[“(C) an entity described under the**
10 **provisions of paragraph (8), but such in-**
11 **dividual shall report the category of the**
12 **amount of income received by him, his**
13 **spouse, or any dependent child from the**
14 **entity under subsection (a)(1)(B).**

15 **[“(3) For purposes of this subsection, the**
16 **term ‘qualified blind trust’ includes any trust**
17 **in which a reporting individual, his spouse, or**
18 **any minor or dependent child has a beneficial**
19 **interest in the principal or income, and which**
20 **meets the following requirements:**

21 **[“(A)(i) The trustee of the trust and**
22 **any other entity designated in the trust**
23 **instrument to perform fiduciary duties is**
24 **a financial institution, an attorney, a cer-**

1 **tified public accountant, a broker, or an**
2 **investment advisor who—**

3 **[(I) is independent of and not as-**
4 **sociated with any interested party so**
5 **that the trustee or other person can-**
6 **not be controlled or influenced in the**
7 **administration of the trust by any in-**
8 **terested party;**

9 **[(II) is not and has not been an**
10 **employee of or affiliated with any in-**
11 **terested party and is not a partner of,**
12 **or involved in any joint venture or**
13 **other investment with, any interested**
14 **party; and**

15 **[(III) is not a relative of any in-**
16 **terested party.**

17 **[(ii) Any officer or employee of a**
18 **trustee or other entity who is involved in**
19 **the management or control of the trust—**

20 **[(I) is independent of and not as-**
21 **sociated with any interested party so**
22 **that such officer or employee cannot**
23 **be controlled or influenced in the ad-**
24 **ministration of the trust by any inter-**
25 **ested party;**

1 **[(II) is not a partner of, or in-**
2 **involved in any joint venture or other**
3 **investment with, any interested**
4 **party; and**

5 **[(III) is not a relative of any in-**
6 **terested party.**

7 **[(B) Any asset transferred to the**
8 **trust by an interested party is free of any**
9 **restriction with respect to its transfer or**
10 **sale unless such restriction is expressly**
11 **approved by the Office of Government**
12 **Ethics.**

13 **[(C) The trust instrument which es-**
14 **tablishes the trust provides that—**

15 **[(i) except to the extent provided**
16 **in subparagraph (B), the trustee in**
17 **the exercise of his authority and dis-**
18 **cretion to manage and control the as-**
19 **sets of the trust shall not consult or**
20 **notify any interested party;**

21 **[(ii) the trust shall not contain**
22 **any asset the holding of which by an**
23 **interested party is prohibited by any**
24 **law or regulation;**

1 **[(“iii) the trustee shall promptly**
2 **notify the reporting individual and**
3 **the Office of Government Ethics**
4 **when the holdings of any particular**
5 **asset transferred to the trust by any**
6 **interested party are disposed of or**
7 **when the value of such holding is less**
8 **than \$1,000;**

9 **[(“iv) the trust tax return shall be**
10 **prepared by the trustee or his des-**
11 **ignee, and such return and any infor-**
12 **mation relating thereto (other than**
13 **the trust income summarized in ap-**
14 **propriate categories necessary to**
15 **complete an interested party’s tax re-**
16 **turn), shall not be disclosed to any in-**
17 **terested party;**

18 **[(“v) an interested party shall not**
19 **receive any report on the holdings**
20 **and sources of income of the trust,**
21 **except a report at the end of each cal-**
22 **endar quarter with respect to the**
23 **total cash value of the interest of the**
24 **interested party in the trust or the**
25 **net income or loss of the trust or any**

1 reports necessary to enable the inter-
2 ested party to complete an individual
3 tax return required by law or to pro-
4 vide the information required by sub-
5 section (a)(1) of this section, but such
6 report shall not identify any asset or
7 holding;

8 [“(vi) except for communications
9 which solely consist of requests for
10 distributions of cash or other unspec-
11 ified assets of the trust, there shall be
12 no direct or indirect communication
13 between the trustee and an interested
14 party with respect to the trust unless
15 such communication is in writing and
16 unless it relates only (I) to the gen-
17 eral financial interest and needs of
18 the interested party (including, but
19 not limited to, an interest in maxi-
20 mizing income or long-term capital
21 gain), (II) to the notification of the
22 trustee of a law or regulation subse-
23 quently applicable to the reporting
24 individual which prohibits the inter-
25 ested party from holding an asset,

1 **which notification directs that the**
2 **asset not be held by the trust, or (III)**
3 **to directions to the trustee to sell all**
4 **of an asset initially placed in the**
5 **trust by an interested party which in**
6 **the determination of the reporting in-**
7 **dividual creates a conflict of interest**
8 **or the appearance thereof due to the**
9 **subsequent assumption of duties by**
10 **the reporting individual (but nothing**
11 **herein shall require any such direc-**
12 **tion); and**

13 **[(“vii) the interested parties shall**
14 **make no effort to obtain information**
15 **with respect to the holdings of the**
16 **trust, including obtaining a copy of**
17 **any trust tax return filed or any in-**
18 **formation relating thereto except as**
19 **otherwise provided in this sub-**
20 **section.**

21 **[(“D) The proposed trust instrument**
22 **and the proposed trustee is approved by**
23 **the Office of Government Ethics.**

24 **[(“E) For purposes of this subsection,**
25 **‘interested party’ means a reporting indi-**

1 vidual, his spouse, and any minor or de-
2 pendent child; ‘broker’ has the meaning
3 set forth in section 3(a)(4) of the Securi-
4 ties and Exchange Act of 1934 (15 U.S.C.
5 78c(a)(4)); and ‘investment adviser’ in-
6 cludes any investment adviser who, as
7 determined under regulations prescribed
8 by the supervising ethics office, is gen-
9 erally involved in his role as such an ad-
10 viser in the management or control of
11 trusts.

12 [“(4)(A) An asset placed in a trust by an
13 interested party shall be considered a finan-
14 cial interest of the reporting individual, for
15 the purposes of any applicable conflict of in-
16 terest statutes, regulations, or rules of the
17 Federal Government (including section 208 of
18 title 18, United States Code), until such time
19 as the reporting individual is notified by the
20 trustee that such asset has been disposed of,
21 or has a value of less than \$1,000.

22 [“(B)(i) The provisions of subparagraph
23 (A) shall not apply with respect to a trust cre-
24 ated for the benefit of a reporting individual,
25 or the spouse, dependent child, or minor child

1 of such a person, if the Office of Government
2 Ethics finds that—

3 **[(I) the assets placed in the trust**
4 **consist of a well-diversified portfolio of**
5 **readily marketable securities;**

6 **[(II) none of the assets consist of se-**
7 **curities of entities having substantial ac-**
8 **tivities in the area of the reporting indi-**
9 **vidual's primary area of responsibility;**

10 **[(III) the trust instrument prohibits**
11 **the trustee, notwithstanding the provi-**
12 **sions of paragraph (3)(C) (iii) and (iv),**
13 **from making public or informing any in-**
14 **terested party of the sale of any securi-**
15 **ties;**

16 **[(IV) the trustee is given power of**
17 **attorney, notwithstanding the provisions**
18 **of paragraph (3)(C)(v), to prepare on be-**
19 **half of any interested party the personal**
20 **income tax returns and similar returns**
21 **which may contain information relating**
22 **to the trust; and**

23 **[(V) except as otherwise provided in**
24 **this paragraph, the trust instrument pro-**
25 **vides (or in the case of a trust which by**

1 its terms does not permit amendment, the
2 trustee, the reporting individual, and any
3 other interested party agree in writing)
4 that the trust shall be administered in ac-
5 cordance with the requirements of this
6 subsection and the trustee of such trust
7 meets the requirements of paragraph
8 (3)(A).

9 [“(ii) In any instance covered by subpara-
10 graph (B) in which the reporting individual is
11 an individual whose nomination is being con-
12 sidered by a congressional committee, the re-
13 porting individual shall inform the congres-
14 sional committee considering his nomination
15 before or during the period of such individ-
16 ual’s confirmation hearing of his intention to
17 comply with this paragraph.

18 [“(5)(A) The reporting individual shall,
19 within 30 days after a qualified blind trust is
20 approved by the Office of Government Ethics,
21 file with such office a copy of—

22 [“(i) the executed trust instrument of
23 such trust (other than those provisions
24 which relate to the testamentary disposi-
25 tion of the trust assets), and

1 **[(ii) a list of the assets which were**
2 **transferred to such trust, including the**
3 **category of value of each asset as deter-**
4 **mined under subsection (d).**

5 **This subparagraph shall not apply with re-**
6 **spect to a trust meeting the requirements for**
7 **being considered a qualified blind trust under**
8 **paragraph (7).**

9 **[(B) The reporting individual shall, with-**
10 **in 30 days of transferring an asset (other than**
11 **cash) to a previously established qualified**
12 **blind trust, notify the Office of Government**
13 **Ethics of the identity of each such asset and**
14 **the category of value of each asset as deter-**
15 **mined under subsection (d) of this section.**

16 **[(C) Within 30 days of the dissolution of**
17 **a qualified blind trust, a reporting individual**
18 **shall notify the Office of Government Ethics**
19 **of such dissolution.**

20 **[(D) Documents filed under subpara-**
21 **graphs (A), (B), and (C) and the lists provided**
22 **by the trustee of assets placed in the trust by**
23 **an interested party which have been sold**
24 **shall be made available to the public in the**
25 **same manner as a report is made available**

1 under section 305 and the provisions of that
2 section shall apply with respect to such docu-
3 ments and lists.

4 **[(E) A copy of each written communica-**
5 **tion with respect to the trust under para-**
6 **graph (3)(C)(vi) shall be filed by the person**
7 **initiating the communication with the Office**
8 **of Government Ethics within 5 days of the**
9 **date of the communication.**

10 **[(6)(A) A trustee of a qualified blind trust**
11 **shall not knowingly and willfully, or neg-**
12 **ligently, (i) disclose any information to an in-**
13 **terested party with respect to such trust that**
14 **may not be disclosed under paragraph (3); (ii)**
15 **acquire any holding the ownership of which**
16 **is prohibited by the trust instrument; (iii) so-**
17 **licit advice from any interested party with re-**
18 **spect to such trust, which solicitation is pro-**
19 **hibited by paragraph (3) or the trust agree-**
20 **ment; or (iv) fail to file any document re-**
21 **quired by this subsection.**

22 **[(B) A reporting individual shall not**
23 **knowingly and willfully, or negligently, (i) so-**
24 **licit or receive any information with respect**
25 **to a qualified blind trust of which he is an in-**

1 terested party that may not be disclosed
2 under paragraph (3)(C) or (ii) fail to file any
3 document required by this subsection.

4 **[(C)(i) The Attorney General may bring a**
5 **civil action in any appropriate United States**
6 **district court against any individual who**
7 **knowingly and willfully violates the provi-**
8 **sions of subparagraph (A) or (B). The court in**
9 **which such action is brought may assess**
10 **against such individual a civil penalty in any**
11 **amount not to exceed \$10,000.**

12 **[(ii) The Attorney General may bring a**
13 **civil action in any appropriate United States**
14 **district court against any individual who neg-**
15 **ligently violates the provisions of subpara-**
16 **graph (A) or (B). The court in which such ac-**
17 **tion is brought may assess against such indi-**
18 **vidual a civil penalty in any amount not to ex-**
19 **ceed \$5,000.**

20 **[(7) Any trust may be considered to be a**
21 **qualified blind trust if—**

22 **[(A) the trust instrument is amended**
23 **to comply with the requirements of para-**
24 **graph (3) or, in the case of a trust instru-**
25 **ment which does not by its terms permit**

1 amendment, the trustee, the reporting in-
2 dividual, and any other interested party
3 agree in writing that the trust shall be
4 administered in accordance with the re-
5 quirements of this subsection and the
6 trustee of such trust meets the require-
7 ments of paragraph (3)(A); except that in
8 the case of any interested party who is a
9 dependent child, a parent or guardian of
10 such child may execute the agreement re-
11 ferred to in this subparagraph;

12 [“(B) a copy of the trust instrument
13 (except testamentary provisions) and a
14 copy of the agreement referred to in sub-
15 paragraph (A), and a list of the assets
16 held by the trust at the time of approval
17 by the Office of Government Ethics, in-
18 cluding the category of value of each
19 asset as determined under subsection (d),
20 are filed with such office and made avail-
21 able to the public as provided under
22 paragraph (5)(D); and

23 [“(C) the Director of the Office of
24 Government Ethics determines that ap-
25 proval of the trust arrangement as a

1 **qualified blind trust is in the particular**
2 **case appropriate to assure compliance**
3 **with applicable laws and regulations.**

4 **[(8) A reporting individual shall not be**
5 **required to report the financial interests held**
6 **by a widely held investment fund (whether**
7 **such fund is a mutual fund, regulated invest-**
8 **ment company, pension or deferred com-**
9 **pensation plan, or other investment fund), if—**

10 **[(A)(i) the fund is publicly traded; or**

11 **[(ii) the assets of the fund are widely**
12 **diversified; and**

13 **[(B) the reporting individual neither**
14 **exercises control over nor has the ability**
15 **to exercise control over the financial in-**
16 **terests held by the fund.**

17 **[(9)(A)(i) A reporting individual de-**
18 **scribed in subsection (a) or (b) of section 301**
19 **shall not be required to report the holdings or**
20 **sources of income of any trust or investment**
21 **fund where—**

22 **[(I) reporting would result in the**
23 **disclosure of assets or sources of income**
24 **of another person whose interests are not**

1 **required to be reported by the reporting**
2 **individual under this title;**

3 **[(“II) the disclosure of such assets**
4 **and sources of income is prohibited by**
5 **contract or the assets and sources of in-**
6 **come are not otherwise publicly avail-**
7 **able; and**

8 **[(“III) the reporting individual has**
9 **executed a written ethics agreement**
10 **which contains a general description of**
11 **the trust or investment fund and a com-**
12 **mitment to divest the interest in the trust**
13 **or investment fund not later than 90 days**
14 **after the date of the agreement.**

15 **[(“ii) An agreement described under**
16 **clause (i)(III) shall be attached to the public**
17 **financial disclosure which would otherwise**
18 **include a listing of the holdings or sources of**
19 **income from this trust or investment fund.**

20 **[(“B)(i) The provisions of subparagraph**
21 **(A) shall apply to an individual described in**
22 **subsection (c) or (d) of section 301 if—**

23 **[(“I) the interest in the trust or in-**
24 **vestment fund is acquired involuntarily**
25 **during the period to be covered by the**

1 report, such as through marriage or in-
2 heritance, and

3 [“(II) for an individual described in
4 subsection (c), the individual executes a
5 written ethics agreement containing a
6 commitment to divest the interest no
7 later than 90 days after the date on
8 which the report is due.

9 [“(ii) An agreement described under
10 clause (i)(II) shall be attached to the public fi-
11 nancial disclosure which would otherwise in-
12 clude a listing of the holdings or sources of in-
13 come from this trust or investment fund.

14 [“(iii) Failure to divest within the time
15 specified or after an extension granted by the
16 Director of the Office of Government Ethics
17 for good cause shown shall result in an imme-
18 diate requirement to report as specified in
19 paragraph (1).

20 [“(g) Political campaign funds, including
21 campaign receipts and expenditures, need not
22 be included in any report filed pursuant to
23 this title.

24 [“(h) A report filed pursuant to subsection
25 (a), (c), or (d) of section 301 need not contain

1 the information described in subparagraphs
2 (A), (B), and (C) of subsection (a)(2) with re-
3 spect to gifts and reimbursements received in
4 a period when the reporting individual was
5 not an officer or employee of the Federal Gov-
6 ernment.

7 **[(i) A reporting individual shall not be**
8 **required under this title to report—**

9 **[(1) financial interests in or income**
10 **derived from—**

11 **[(A) any retirement system**
12 **under title 5, United States Code (in-**
13 **cluding the Thrift Savings Plan under**
14 **subchapter III of chapter 84 of such**
15 **title); or**

16 **[(B) any other retirement system**
17 **maintained by the United States for**
18 **officers or employees of the United**
19 **States, including the President, or for**
20 **members of the uniformed services;**
21 **or**

22 **[(2) benefits received under the So-**
23 **cial Security Act (42 U.S.C. 301 et seq.).**

24 **[(j)(1) Every month, each designated**
25 **agency ethics officer shall submit to the Of-**

1 fice of Government Ethics notification of any
2 waiver of criminal conflict of interest laws
3 granted to any individual in the preceding
4 month with respect to a filing under this title
5 that is not confidential.

6 **[(2) Every month, the Office of Govern-**
7 **ment Ethics shall make publicly available on**
8 **the Internet—**

9 **[(A) all notifications of waivers sub-**
10 **mitted under paragraph (1) in the pre-**
11 **ceding month; and**

12 **[(B) notification of all waivers grant-**
13 **ed by the Office of Government Ethics in**
14 **the preceding month.**

15 **[(k) A full copy of any waiver of criminal**
16 **conflict of interest laws granted shall be in-**
17 **cluded with any filing required under this**
18 **title with respect to the year in which the**
19 **waiver is granted.**

20 **[(l) The Office of Government Ethics**
21 **shall provide upon request any waiver on file**
22 **for which notice has been published.**

23 **["SEC. 303. FILING OF REPORTS.**

24 **[(a) Except as otherwise provided in this**
25 **section, the reports required under this title**

1 shall be filed by the reporting individual with
2 the designated agency ethics official at the
3 agency by which he is employed (or in the
4 case of an individual described in section
5 301(d), was employed) or in which he will
6 serve. The date any report is received (and
7 the date of receipt of any supplemental re-
8 port) shall be noted on such report by such of-
9 ficial.

10 **[(b) Reports required to be filed under**
11 **this title by the Director of the Office of Gov-**
12 **ernment Ethics shall be filed in the Office of**
13 **Government Ethics and, immediately after**
14 **being filed, shall be made available to the**
15 **public in accordance with this title.**

16 **[(c) Reports required of members of the**
17 **uniformed services shall be filed with the Sec-**
18 **retary concerned.**

19 **[(d) The Office of Government Ethics**
20 **shall develop and make available forms for re-**
21 **porting the information required by this title.**

22 **["SEC. 304. FAILURE TO FILE OR FILING FALSE REPORTS.**

23 **[(a) The Attorney General may bring a**
24 **civil action in any appropriate United States**
25 **district court against any individual who**

1 knowingly and willfully falsifies or who know-
2 ingly and willfully fails to file or report any
3 information that such individual is required
4 to report pursuant to section 302. The court
5 in which such action is brought may assess
6 against such individual a civil penalty in any
7 amount, not to exceed \$10,000.

8 [“(b) The head of each agency, each Sec-
9 retary concerned, or the Director of the Office
10 of Government Ethics, as the case may be,
11 shall refer to the Attorney General the name
12 of any individual which such official has rea-
13 sonable cause to believe has willfully failed to
14 file a report or has willfully falsified or will-
15 fully failed to file information required to be
16 reported.

17 [“(c) The President, the Vice President,
18 the Secretary concerned, or the head of each
19 agency may take any appropriate personnel
20 or other action in accordance with applicable
21 law or regulation against any individual fail-
22 ing to file a report or falsifying or failing to
23 report information required to be reported.

1 **[(d)(1) Any individual who files a report**
2 **required to be filed under this title more than**
3 **30 days after the later of—**

4 **[(A) the date such report is required**
5 **to be filed pursuant to the provisions of**
6 **this title and the rules and regulations**
7 **promulgated thereunder; or**

8 **[(B) if a filing extension is granted**
9 **to such individual under section 301(g),**
10 **the last day of the filing extension period,**
11 **shall, at the direction of and pursuant to**
12 **regulations issued by the Office of Gov-**
13 **ernment Ethics, pay a filing fee of \$500.**
14 **All such fees shall be deposited in the**
15 **miscellaneous receipts of the Treasury.**
16 **The authority under this paragraph to di-**
17 **rect the payment of a filing fee may be**
18 **delegated by the Office of Government**
19 **Ethics to other agencies in the executive**
20 **branch.**

21 **[(2) The Office of Government Ethics**
22 **may waive the filing fee under this subsection**
23 **for good cause shown.**

1 **[“SEC. 305. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.**

2 **[“Any report filed with or transmitted to**
3 **an agency or the Office of Government Ethics**
4 **pursuant to this title shall be retained by such**
5 **agency or Office, as the case may be, for a pe-**
6 **riod of 6 years after receipt of the report.**
7 **After such 6-year period the report shall be**
8 **destroyed unless needed in an ongoing inves-**
9 **tigation, except that in the case of an indi-**
10 **vidual who filed the report pursuant to sec-**
11 **tion 301(b) and was not subsequently con-**
12 **firmed by the Senate, such reports shall be de-**
13 **stroyed 1 year after the individual is no**
14 **longer under consideration by the Senate, un-**
15 **less needed in an ongoing investigation.**

16 **[“SEC. 306. REVIEW OF REPORTS.**

17 **[“(a) Each designated agency ethics offi-**
18 **cial or Secretary concerned shall make provi-**
19 **sions to ensure that each report filed with**
20 **him under this title is reviewed within 60**
21 **days after the date of such filing, except that**
22 **the Director of the Office of Government Eth-**
23 **ics shall review only those reports required to**
24 **be transmitted to him under this title within**
25 **60 days after the date of transmittal.**

1 **[(b)(1) If after reviewing any report**
2 **under subsection (a), the Director of the Of-**
3 **fice of Government Ethics, the Secretary con-**
4 **cerned, or the designated agency ethics offi-**
5 **cial, as the case may be, is of the opinion that**
6 **on the basis of information contained in such**
7 **report the individual submitting such report**
8 **is in compliance with applicable laws and reg-**
9 **ulations, he shall state such opinion on the re-**
10 **port, and shall sign such report.**

11 **[(2) If the Director of the Office of Gov-**
12 **ernment Ethics, the Secretary concerned, or**
13 **the designated agency ethics official after re-**
14 **viewing any report under subsection (a)—**

15 **[(A) believes additional information**
16 **is required to be submitted to complete**
17 **the form or to perform a conflict of inter-**
18 **est analysis, he shall notify the individual**
19 **submitting such report what additional**
20 **information is required and the time by**
21 **which it must be submitted, or**

22 **[(B) is of the opinion, on the basis of**
23 **information submitted, that the indi-**
24 **vidual is not in compliance with applica-**
25 **ble laws and regulations, he shall notify**

1 the individual, afford a reasonable oppor-
2 tunity for a written or oral response, and
3 after consideration of such response,
4 reach an opinion as to whether or not, on
5 the basis of information submitted, the
6 individual is in compliance with such
7 laws and regulations.

8 [“(3) If the Director of the Office of Gov-
9 ernment Ethics, the Secretary concerned, or
10 the designated agency ethics official reaches
11 an opinion under paragraph (2)(B) that an in-
12 dividual is not in compliance with applicable
13 laws and regulations, the official shall notify
14 the individual of that opinion and, after an
15 opportunity for personal consultation (if
16 practicable), determine and notify the indi-
17 vidual of which steps, if any, would in the
18 opinion of such official be appropriate for as-
19 suring compliance with such laws and regula-
20 tions and the date by which such steps should
21 be taken. Such steps may include, as appro-
22 priate—

23 [“(A) divestiture,

24 [“(B) restitution,

1 **[(C) the establishment of a blind**
2 **trust,**

3 **[(D) request for an exemption under**
4 **section 208(b) of title 18, United States**
5 **Code, or**

6 **[(E) voluntary request for transfer,**
7 **reassignment, limitation of duties, or res-**
8 **ignation.**

9 **The use of any such steps shall be in accord-**
10 **ance with such rules or regulations as the Of-**
11 **fice of Government Ethics may prescribe.**

12 **[(4) If steps for assuring compliance with**
13 **applicable laws and regulations are not taken**
14 **by the date set under paragraph (3) by a mem-**
15 **ber of the Foreign Service or the uniformed**
16 **services, the Secretary concerned shall take**
17 **appropriate action.**

18 **[(5) If steps for assuring compliance with**
19 **applicable laws and regulations are not taken**
20 **by the date set under paragraph (3) by any**
21 **other officer or employee, the matter shall be**
22 **referred to the head of the appropriate agen-**
23 **cy for appropriate action.**

24 **[(6) The Office of Government Ethics**
25 **may render advisory opinions interpreting**

1 this title. Notwithstanding any other provi-
2 sion of law, the individual to whom a public
3 advisory opinion is rendered in accordance
4 with this paragraph, and any other individual
5 covered by this title who is involved in a fact
6 situation which is indistinguishable in all ma-
7 terial aspects, and who acts in good faith in
8 accordance with the provisions and findings
9 of such advisory opinion shall not, as a result
10 of such act, be subject to any penalty or sanc-
11 tion provided by this title.

12 [“SEC. 307. CONFIDENTIAL REPORTS AND OTHER ADDI-
13 TIONAL REQUIREMENTS.

14 [“(a)(1) The Office of Government Ethics
15 may require officers and employees of the ex-
16 ecutive branch (including special Govern-
17 ment employees as defined in section 202 of
18 title 18, United States Code) to file confiden-
19 tial financial disclosure reports, in such form
20 as it may prescribe. The information required
21 to be reported under this subsection by the of-
22 ficers and employees of any department or
23 agency listed in section 301(e) shall be set
24 forth in rules or regulations prescribed by the
25 Office of Government Ethics, and may be less

1 extensive than otherwise required by this
2 title, or more extensive when determined by
3 the Office of Government Ethics to be nec-
4 essary and appropriate in light of sections 202
5 through 209 of title 18, United States Code,
6 regulations promulgated thereunder, or the
7 authorized activities of such officers or em-
8 ployees. Any individual required to file a re-
9 port pursuant to section 301 shall not be re-
10 quired to file a confidential report pursuant
11 to this subsection, except with respect to in-
12 formation which is more extensive than infor-
13 mation otherwise required by this title. Sec-
14 tion 305 shall not apply with respect to any
15 such report.

16 [“(2) Any information required to be pro-
17 vided by an individual under this subsection
18 shall be confidential and shall not be dis-
19 closed to the public.

20 [“(3) Nothing in this subsection exempts
21 any individual otherwise covered by the re-
22 quirement to file a public financial disclosure
23 report under this title from such requirement.

24 [“(b) The provisions of this title requiring
25 the reporting of information shall supersede

1 any general requirement under any other pro-
2 vision of law or regulation with respect to the
3 reporting of information required for pur-
4 poses of preventing conflicts of interest or ap-
5 parent conflicts of interest. Such provisions of
6 this title shall not supersede the requirements
7 of section 7342 of title 5, United States Code.

8 **[(c) Nothing in this Act requiring report-**
9 **ing of information shall be deemed to author-**
10 **ize the receipt of income, gifts, or reimburse-**
11 **ments; the holding of assets, liabilities, or po-**
12 **sitions; or the participation in transactions**
13 **that are prohibited by law, Executive order,**
14 **rule, or regulation.**

15 **["SEC. 308. AUTHORITY OF COMPTROLLER GENERAL.**

16 **["The Comptroller General shall have ac-**
17 **cess to financial disclosure reports filed**
18 **under this title for the purposes of carrying**
19 **out his statutory responsibilities.**

20 **["SEC. 309. DEFINITIONS.**

21 **["For the purposes of this title—**

22 **["(1) the term ‘dependent child’**
23 **means, when used with respect to any re-**
24 **porting individual, any individual who is**

1 a son, daughter, stepson, or stepdaughter
2 and who—

3 [“(A) is unmarried and under age
4 21 and is living in the household of
5 such reporting individual; or

6 [“(B) is a dependent of such re-
7 porting individual within the mean-
8 ing of section 152 of the Internal Rev-
9 enue Code of 1986 (26 U.S.C. 152);

10 [“(2) the term ‘designated agency eth-
11 ics official’ means an officer or employee
12 who is designated to administer the pro-
13 visions of this title within an agency;

14 [“(3) the term ‘executive branch’ in-
15 cludes—

16 [“(A) each Executive agency (as
17 defined in section 105 of title 5,
18 United States Code), other than the
19 General Accounting Office; and

20 [“(B) any other entity or adminis-
21 trative unit in the executive branch;

22 [“(4) the term ‘gift’ means a payment,
23 advance, forbearance, rendering, or de-
24 posit of money, or any thing of value, un-
25 less consideration of equal or greater

1 value is received by the donor, but does
2 not include—

3 ["(A) bequests and other forms of
4 inheritance;

5 ["(B) suitable mementos of a func-
6 tion honoring the reporting indi-
7 vidual;

8 ["(C) food, lodging, transpor-
9 tation, and entertainment provided
10 by a foreign government within a for-
11 eign country or by the United States
12 Government, the District of Colum-
13 bia, or a State or local government or
14 political subdivision thereof;

15 ["(D) food and beverages which
16 are not consumed in connection with
17 a gift of overnight lodging;

18 ["(E) communications to the of-
19 fices of a reporting individual, includ-
20 ing subscriptions to newspapers and
21 periodicals; or

22 ["(F) items that are accepted pur-
23 suant to or are required to be re-
24 ported by the reporting individual

1 under section 7342 of title 5, United
2 States Code.

3 [“(5) the term ‘honorarium’ means a
4 payment of money or anything of value
5 for an appearance, speech, or article;

6 [“(6) the term ‘income’ means all in-
7 come from whatever source derived, in-
8 cluding but not limited to the following
9 items: compensation for services, includ-
10 ing fees, commissions, and similar items;
11 gross income derived from business (and
12 net income if the individual elects to in-
13 clude it); gains derived from dealings in
14 property; interest; rents; royalties; prizes
15 and awards; dividends; annuities; income
16 from life insurance and endowment con-
17 tracts; pensions; income from discharge
18 of indebtedness; distributive share of
19 partnership income; and income from an
20 interest in an estate or trust;

21 [“(7) the term ‘personal hospitality of
22 any individual’ means hospitality ex-
23 tended for a nonbusiness purpose by an
24 individual, not a corporation or organiza-
25 tion, at the personal residence of that in-

1 dividual or his family or on property or
2 facilities owned by that individual or his
3 family;

4 [“(8) the term ‘reimbursement’ means
5 any payment or other thing of value re-
6 ceived by the reporting individual, other
7 than gifts, to cover travel-related ex-
8 penses of such individual other than
9 those which are—

10 [“(A) provided by the United
11 States Government, the District of
12 Columbia, or a State or local govern-
13 ment or political subdivision thereof;

14 [“(B) required to be reported by
15 the reporting individual under sec-
16 tion 7342 of title 5, United States
17 Code; or

18 [“(C) required to be reported
19 under section 304 of the Federal Elec-
20 tion Campaign Act of 1971 (2 U.S.C.
21 434);

22 [“(9) the term ‘relative’ means an in-
23 dividual who is related to the reporting
24 individual, as father, mother, son, daugh-
25 ter, brother, sister, uncle, aunt, great

1 aunt, great uncle, first cousin, nephew,
2 niece, husband, wife, grandfather, grand-
3 mother, grandson, granddaughter, father-
4 in-law, mother-in-law, son-in-law, daugh-
5 ter-in-law, brother-in-law, sister-in-law,
6 stepfather, stepmother, stepson, step-
7 daughter, stepbrother, stepsister, half
8 brother, half sister, or who is the grand-
9 father or grandmother of the spouse of
10 the reporting individual, and shall be
11 deemed to include the fiancé or fiancée
12 of the reporting individual;

13 [“(10) the term ‘Secretary concerned’
14 has the meaning set forth in section
15 101(a)(9) of title 10, United States Code;
16 and

17 [“(11) the term ‘value’ means a good
18 faith estimate of the dollar value if the
19 exact value is neither known nor easily
20 obtainable by the reporting individual.

21 [“SEC. 310. NOTICE OF ACTIONS TAKEN TO COMPLY WITH
22 ETHICS AGREEMENTS.

23 [“(a) In any case in which an individual
24 agrees with that individual’s designated agen-
25 cy ethics official, the Office of Government

1 **Ethics, or a Senate confirmation committee,**
2 **to take any action to comply with this Act or**
3 **any other law or regulation governing con-**
4 **flicts of interest of, or establishing standards**
5 **of conduct applicable with respect to, officers**
6 **or employees of the Government, that indi-**
7 **vidual shall notify in writing the designated**
8 **agency ethics official, the Office of Govern-**
9 **ment Ethics, or the appropriate committee of**
10 **the Senate, as the case may be, of any action**
11 **taken by the individual pursuant to that**
12 **agreement. Such notification shall be made**
13 **not later than the date specified in the agree-**
14 **ment by which action by the individual must**
15 **be taken, or not later than 3 months after the**
16 **date of the agreement, if no date for action is**
17 **so specified. If all actions agreed to have not**
18 **been completed by the date of this notifica-**
19 **tion, such notification shall continue on a**
20 **monthly basis thereafter until the individual**
21 **has met the terms of the agreement.**

22 **[(b) If an agreement described in sub-**
23 **section (a) requires that the individual recuse**
24 **himself or herself from particular categories**
25 **of agency or other official action, the indi-**

1 vidual shall reduce to writing those subjects
2 regarding which the recusal agreement will
3 apply and the process by which it will be de-
4 termined whether the individual must recuse
5 himself or herself in a specific instance. An in-
6 dividual shall be considered to have complied
7 with the requirements of subsection (a) with
8 respect to such recusal agreement if such in-
9 dividual files a copy of the document setting
10 forth the information described in the pre-
11 ceding sentence with such individual's des-
12 ignated agency ethics official or the Office of
13 Government Ethics within the time pre-
14 scribed in the penultimate sentence of sub-
15 section (a).

16 [“SEC. 311. ADMINISTRATION OF PROVISIONS.

17 [“The Office of Government Ethics shall
18 issue regulations, develop forms, and provide
19 such guidance as is necessary to implement
20 and interpret this title.”.

21 [(b) EXEMPTION FROM PUBLIC ACCESS TO FI-
22 NANCIAL DISCLOSURES.—Section 105(a)(1) of
23 such Act is amended by inserting “the Office
24 of the National Intelligence Director,” before
25 “the Central Intelligence Agency”.

1 **[(c) CONFORMING AMENDMENT.—Section**
2 **101(f) of such Act is amended—**

3 **[(1) in paragraph (12), by striking the**
4 **period at the end and inserting a semi-**
5 **colon; and**

6 **[(2) by adding at the end the fol-**
7 **lowing:**

8 **“but do not include any officer or employee of**
9 **any department or agency listed in section**
10 **301(e).”.**

11 **[SEC. 5044. REDUCTION OF POSITIONS REQUIRING AP-**
12 **POINTMENT WITH SENATE CONFIRMATION.**

13 **[(a) DEFINITION.—In this section, the term**
14 **“agency” means an Executive agency, as de-**
15 **fin ed under section 105 of title 5, United**
16 **States Code.**

17 **[(b) REDUCTION PLAN.—**

18 **[(1) IN GENERAL.—Not later than 180**
19 **days after the date of enactment of this**
20 **Act, the head of each agency shall submit**
21 **a Presidential appointment reduction**
22 **plan to—**

23 **[(A) the President;**

24 **[(B) the Committee on Govern-**
25 **mental Affairs of the Senate; and**

1 **[(C) the Committee on Govern-**
2 **ment Reform of the House of Rep-**
3 **resentatives.**

4 **[(2) CONTENT.—The plan under this**
5 **subsection shall provide for the reduc-**
6 **tion of—**

7 **[(A) the number of positions with-**
8 **in that agency that require an ap-**
9 **pointment by the President, by and**
10 **with the advice and consent of the**
11 **Senate; and**

12 **[(B) the number of levels of such**
13 **positions within that agency.**

14 **[SEC. 5045. EFFECTIVE DATES.**

15 **[(a) SECTION 5043.—**

16 **[(1) IN GENERAL.—Subject to para-**
17 **graph (2), the amendments made by sec-**
18 **tion 5043 shall take effect on January 1 of**
19 **the year following the year in which oc-**
20 **curs the date of enactment of this Act.**

21 **[(2) LATER DATE.—If this Act is en-**
22 **acted on or after July 1 of a year, the**
23 **amendments made by section 301 shall**
24 **take effect on July 1 of the following**
25 **year.**

1 **[(b) SECTION 5044.—Section 5044 shall**
2 **take effect on the date of enactment of this**
3 **Act.**

4 **[CHAPTER 2—FEDERAL BUREAU OF**
5 **INVESTIGATION REVITALIZATION**

6 **[SEC. 5051. MANDATORY SEPARATION AGE.**

7 **[(a) CIVIL SERVICE RETIREMENT SYSTEM.—**
8 **Section 8335(b) of title 5, United States Code,**
9 **is amended—**

10 **[(1) by striking “(b)” and inserting**
11 **“(b)(1)”;** and

12 **[(2) by adding at the end the fol-**
13 **lowing:**

14 **[(“2) In the case of employees of the Fed-**
15 **eral Bureau of Investigation, the second sen-**
16 **tence of paragraph (1) shall be applied by sub-**
17 **stituting ‘65 years of age’ for ‘60 years of age’.**
18 **The authority to grant exemptions in accord-**
19 **ance with the preceding sentence shall cease**
20 **to be available after December 31, 2009.”.**

21 **[(b) FEDERAL EMPLOYEES’ RETIREMENT SYS-**
22 **TEM.—Section 8425(b) of title 5, United States**
23 **Code, is amended—**

24 **[(1) by striking “(b)” and inserting**
25 **“(b)(1)”;** and

1 **[(2) by adding at the end the fol-**
2 **lowing:**

3 **["(2) In the case of employees of the Fed-**
4 **eral Bureau of Investigation, the second sen-**
5 **tence of paragraph (1) shall be applied by sub-**
6 **stituting '65 years of age' for '60 years of age'.**
7 **The authority to grant exemptions in accord-**
8 **ance with the preceding sentence shall cease**
9 **to be available after December 31, 2009.".**

10 **[SEC. 5052. RETENTION AND RELOCATION BONUSES.**

11 **[(a) IN GENERAL.—Subchapter IV of chap-**
12 **ter 57 of title 5, United States Code, is amend-**
13 **ed by adding at the end the following:**

14 **["§ 5759. Retention and relocation bonuses for the**
15 **Federal Bureau of Investigation**

16 **["(a) AUTHORITY.—The Director of the Fed-**
17 **eral Bureau of Investigation, after consulta-**
18 **tion with the Director of the Office of Per-**
19 **sonnel Management, may pay, on a case-by-**
20 **case basis, a bonus under this section to an**
21 **employee of the Bureau if—**

22 **["(1)(A) the unusually high or unique**
23 **qualifications of the employee or a spe-**
24 **cial need of the Bureau for the employ-**

1 ee's services makes it essential to retain
2 the employee; and

3 ["(B) the Director of the Federal Bu-
4 reau of Investigation determines that, in
5 the absence of such a bonus, the em-
6 ployee would be likely to leave—

7 ["(i) the Federal service; or

8 ["(ii) for a different position in
9 the Federal service; or

10 ["(2) the individual is transferred to a
11 different geographic area with a higher
12 cost of living (as determined by the Di-
13 rector of the Federal Bureau of Investiga-
14 tion).

15 ["(b) SERVICE AGREEMENT.—Payment of a
16 bonus under this section is contingent upon
17 the employee entering into a written service
18 agreement with the Bureau to complete a pe-
19 riod of service with the Bureau. Such agree-
20 ment shall include—

21 ["(1) the period of service the indi-
22 vidual shall be required to complete in
23 return for the bonus; and

24 ["(2) the conditions under which the
25 agreement may be terminated before the

1 **agreed-upon service period has been**
2 **completed, and the effect of the termi-**
3 **nation.**

4 **[(c) LIMITATION ON AUTHORITY.—A bonus**
5 **paid under this section may not exceed 50**
6 **percent of the employee’s basic pay.**

7 **[(d) IMPACT ON BASIC PAY.—A retention**
8 **bonus is not part of the basic pay of an em-**
9 **ployee for any purpose.**

10 **[(e) TERMINATION OF AUTHORITY.—The au-**
11 **thority to grant bonuses under this section**
12 **shall cease to be available after December 31,**
13 **2009.”.**

14 **[(b) CLERICAL AMENDMENT.—The analysis**
15 **for chapter 57 of title 5, United States Code,**
16 **is amended by adding at the end the fol-**
17 **lowing:**

["5759. Retention and relocation bonuses for the Federal Bu-
 reau of Investigation.”.

18 **[SEC. 5053. FEDERAL BUREAU OF INVESTIGATION RE-**
19 **SERVE SERVICE.**

20 **[(a) IN GENERAL.—Chapter 35 of title 5,**
21 **United States Code, is amended by adding at**
22 **the end the following:**

1 **[“SUBCHAPTER VII—RETENTION OF RE-**
2 **TIED SPECIALIZED EMPLOYEES AT**
3 **THE FEDERAL BUREAU OF INVESTIGA-**
4 **TION**

5 **[“§ 3598. Federal Bureau of Investigation Reserve**
6 **Service**

7 **[“(a) ESTABLISHMENT.—The Director of the**
8 **Federal Bureau of Investigation may provide**
9 **for the establishment and training of a Fed-**
10 **eral Bureau of Investigation Reserve Service**
11 **(hereinafter in this section referred to as the**
12 **‘FBI Reserve Service’) for temporary reem-**
13 **ployment of employees in the Bureau during**
14 **periods of emergency, as determined by the**
15 **Director.**

16 **[“(b) MEMBERSHIP.—Membership in the**
17 **FBI Reserve Service shall be limited to indi-**
18 **viduals who previously served as full-time em-**
19 **ployees of the Bureau.**

20 **[“(c) ANNUITANTS.—If an individual receiv-**
21 **ing an annuity from the Civil Service Retire-**
22 **ment and Disability Fund on the basis of such**
23 **individual’s service becomes temporarily re-**
24 **employed pursuant to this section, such annu-**
25 **ity shall not be discontinued thereby. An indi-**

1 vidual so reemployed shall not be considered
2 an employee for the purposes of chapter 83 or
3 84.

4 **[(“d) NO IMPACT ON BUREAU PERSONNEL**
5 **CEILING.—FBI Reserve Service members re-**
6 **employed on a temporary basis pursuant to**
7 **this section shall not count against any per-**
8 **sonnel ceiling applicable to the Bureau.**

9 **[(“e) EXPENSES.—The Director may pro-**
10 **vide members of the FBI Reserve Service**
11 **transportation and per diem in lieu of subsist-**
12 **ence, in accordance with applicable provi-**
13 **sions of this title, for the purpose of partici-**
14 **pating in any training that relates to service**
15 **as a member of the FBI Reserve Service.**

16 **[(“f) LIMITATION ON MEMBERSHIP.—Mem-**
17 **bership of the FBI Reserve Service is not to**
18 **exceed 500 members at any given time.”.**

19 **[(b) CLERICAL AMENDMENT.—The analysis**
20 **for chapter 35 of title 5, United States Code,**
21 **is amended by adding at the end the fol-**
22 **lowing:**

["SUBCHAPTER VII—RETENTION OF RETIRED SPECIALIZED
 EMPLOYEES AT THE FEDERAL BUREAU OF INVESTIGATION

["3598. Federal Bureau of Investigation Reserve Service.”.

1 **[SEC. 5054. CRITICAL POSITIONS IN THE FEDERAL BUREAU**
2 **OF INVESTIGATION INTELLIGENCE DIREC-**
3 **TORATE.**

4 **[Section 5377(a)(2) of title 5, United States**
5 **Code, is amended—**

6 **[(1) by striking “and” at the end of**
7 **subparagraph (E);**

8 **[(2) by striking the period at the end**
9 **of subparagraph (F) and inserting “; and”;**
10 **and**

11 **[(3) by inserting after subparagraph**
12 **(F) the following:**

13 **[“(G) a position at the Federal**
14 **Bureau of Investigation, the primary**
15 **duties and responsibilities of which**
16 **relate to intelligence functions (as de-**
17 **termined by the Director of the Fed-**
18 **eral Bureau of Investigation).”.**

19 **[CHAPTER 3—MANAGEMENT AUTHORITY**

20 **[SEC. 5061. MANAGEMENT AUTHORITY.**

21 **[(a) MANAGEMENT AUTHORITY.—Section**
22 **7103(b)(1)(A) of title 5, United States Code, is**
23 **amended by adding “homeland security,”**
24 **after “investigative,”.**

1 **[(b) EXCLUSIONARY AUTHORITY.—Section**
2 **842 of the Homeland Security Act (Public Law**
3 **107–296; 6 U.S.C. 412) is repealed.**

4 **[Subtitle F—Security Clearance**
5 **Modernization**

6 **[SEC. 5071. DEFINITIONS.**

7 **[In this subtitle:**

8 **[(1) The term “Director” means the**
9 **National Intelligence Director.**

10 **[(2) The term “agency” means—**

11 **[(A) an executive agency, as de-**
12 **fin ed in section 105 of title 5, United**
13 **States Code;**

14 **[(B) a military department, as de-**
15 **fin ed in section 102 of title 5, United**
16 **States Code; and**

17 **[(C) elements of the intelligence**
18 **community, as defined in section 3(4)**
19 **of the National Security Act of 1947**
20 **(50 U.S.C. 401a(4)).**

21 **[(3) The term “authorized investiga-**
22 **tive agency” means an agency authorized**
23 **by law, regulation or direction of the Di-**
24 **rector to conduct a counterintelligence**
25 **investigation or investigation of persons**

1 **who are proposed for access to classified**
2 **information to ascertain whether such**
3 **persons satisfy the criteria for obtaining**
4 **and retaining access to such information.**

5 **[(4) The term “authorized adjudica-**
6 **tive agency” means an agency authorized**
7 **by law, regulation or direction of the Di-**
8 **rector to determine eligibility for access**
9 **to classified information in accordance**
10 **with Executive Order 12968.**

11 **[(5) The term “highly sensitive pro-**
12 **gram” means—**

13 **[(A) a government program des-**
14 **ignated as a Special Access Program**
15 **(as defined by section 4.1(h) of Execu-**
16 **tive Order 12958); and**

17 **[(B) a government program that**
18 **applies restrictions required for—**

19 **[(i) Restricted Data (as de-**
20 **finied by section 11 y. of the Atom-**
21 **ic Energy Act of 1954 (42 U.S.C.**
22 **2014(y)); or**

23 **[(ii) other information com-**
24 **monly referred to as “Sensitive**
25 **Compartmented Information”.**

1 **[(6) The term “current investigation**
2 **file” means, with respect to a security**
3 **clearance, a file on an investigation or**
4 **adjudication that has been conducted**
5 **during—**

6 **[(A) the 5-year period beginning**
7 **on the date the security clearance**
8 **was granted, in the case of a Top Se-**
9 **cret Clearance, or the date access was**
10 **granted to a highly sensitive pro-**
11 **gram;**

12 **[(B) the 10-year period beginning**
13 **on the date the security clearance**
14 **was granted in the case of a Secret**
15 **Clearance; and**

16 **[(C) the 15-year period beginning**
17 **on the date the security clearance**
18 **was granted in the case of a Con-**
19 **fidential Clearance.**

20 **[(7) The term “personnel security in-**
21 **vestigation” means any investigation re-**
22 **quired for the purpose of determining the**
23 **eligibility of any military, civilian, or gov-**
24 **ernment contractor personnel to access**
25 **classified information.**

1 **[(8) The term “periodic reinvestiga-**
2 **tions” means—**

3 **[(A) investigations conducted for**
4 **the purpose of updating a previously**
5 **completed background investiga-**
6 **tion—**

7 **[(i) every five years in the**
8 **case of a Top Secret Clearance or**
9 **access to a highly sensitive pro-**
10 **gram;**

11 **[(ii) every 10 years in the case**
12 **of a Secret Clearance; and**

13 **[(iii) every 15 years in the**
14 **case of a Confidential Clearance;**

15 **[(B) on-going investigations to**
16 **identify personnel security risks as**
17 **they develop, pursuant to section**
18 **105(c).**

19 **[(9) The term “appropriate commit-**
20 **tees of Congress” means—**

21 **[(A) the Permanent Select Com-**
22 **mittee on Intelligence and the Com-**
23 **mittees on Armed Services, Judiciary,**
24 **and Government Reform of the House**
25 **of Representatives; and**

1 **[(B) the Select Committee on In-**
2 **telligence and the Committees on**
3 **Armed Services, Judiciary, and Gov-**
4 **ernmental Affairs of the Senate.**

5 **[SEC. 5072. SECURITY CLEARANCE AND INVESTIGATIVE**
6 **PROGRAMS OVERSIGHT AND ADMINISTRA-**
7 **TION.**

8 **[The Deputy National Intelligence Direc-**
9 **tor for Community Management and Re-**
10 **sources shall have responsibility for the fol-**
11 **lowing:**

12 **[(1) Directing day-to-day oversight of**
13 **investigations and adjudications for per-**
14 **sonnel security clearances to highly sen-**
15 **sitive programs throughout the Federal**
16 **Government.**

17 **[(2) Developing and implementing**
18 **uniform and consistent policies and pro-**
19 **cedures to ensure the effective, efficient,**
20 **and timely completion of security clear-**
21 **ances and determinations for access to**
22 **highly sensitive programs, including the**
23 **standardization of security question-**
24 **naires, financial disclosure requirements**

1 for security clearance applicants, and
2 polygraph policies and procedures.

3 **[(3) Serving as the final authority to**
4 **designate an authorized investigative**
5 **agency or authorized adjudicative agency**
6 **pursuant to section 5074(d).**

7 **[(4) Ensuring reciprocal recognition**
8 **of access to classified information among**
9 **agencies, including acting as the final au-**
10 **thority to arbitrate and resolve disputes**
11 **involving the reciprocity of security**
12 **clearances and access to highly sensitive**
13 **programs.**

14 **[(5) Ensuring, to the maximum extent**
15 **practicable, that sufficient resources are**
16 **available in each agency to achieve clear-**
17 **ance and investigative program goals.**

18 **[(6) Reviewing and coordinating the**
19 **development of tools and techniques for**
20 **enhancing the conduct of investigations**
21 **and granting of clearances.**

22 **[SEC. 5073. RECIPROCITY OF SECURITY CLEARANCE AND**
23 **ACCESS DETERMINATIONS.**

24 **[(a) REQUIREMENT FOR RECIPROCITY.—(1)**
25 **All security clearance background investiga-**

1 tions and determinations completed by an au-
2 thorized investigative agency or authorized
3 adjudicative agency shall be accepted by all
4 agencies.

5 [(2) All security clearance background in-
6 vestigations initiated by an authorized inves-
7 tigative agency shall be transferable to any
8 other authorized investigative agency.

9 [(b) PROHIBITION ON ESTABLISHING ADDI-
10 TIONAL REQUIREMENTS.—(1) An authorized in-
11 vestigative agency or authorized adjudicative
12 agency may not establish additional inves-
13 tigative or adjudicative requirements (other
14 than requirements for the conduct of a poly-
15 graph examination) that exceed requirements
16 specified in Executive Orders establishing se-
17 curity requirements for access to classified in-
18 formation.

19 [(2) Notwithstanding the paragraph (1),
20 the Director may establish additional require-
21 ments as needed for national security pur-
22 poses.

23 [(c) PROHIBITION ON DUPLICATIVE INVES-
24 TIGATIONS.—An authorized investigative agen-
25 cy or authorized adjudicative agency may not

1 conduct an investigation for purposes of de-
2 termining whether to grant a security clear-
3 ance to an individual where a current inves-
4 tigation or clearance of equal level already ex-
5 ists or has been granted by another author-
6 ized adjudicative agency.

7 [SEC. 5074. ESTABLISHMENT OF NATIONAL DATABASE .

8 [(a) ESTABLISHMENT.—Not later than 12
9 months after the date of the enactment of this
10 Act, the Director of the Office of Personnel
11 Management, in cooperation with the Direc-
12 tor, shall establish, and begin operating and
13 maintaining, an integrated, secure, national
14 database into which appropriate data rel-
15 evant to the granting, denial, or revocation of
16 a security clearance or access pertaining to
17 military, civilian, or government contractor
18 personnel shall be entered from all author-
19 ized investigative and adjudicative agencies.

20 [(b) INTEGRATION.—The national database
21 established under subsection (a) shall func-
22 tion to integrate information from existing
23 Federal clearance tracking systems from
24 other authorized investigative and adjudica-

1 tive agencies into a single consolidated data-
2 base.

3 **[(c) REQUIREMENT TO CHECK DATABASE.—**
4 **Each authorized investigative or adjudicative**
5 **agency shall check the national database es-**
6 **tablished under subsection (a) to determine**
7 **whether an individual the agency has identi-**
8 **fied as requiring a security clearance has al-**
9 **ready been granted or denied a security clear-**
10 **ance, or has had a security clearance revoked,**
11 **by any other authorized investigative or adju-**
12 **dicative agency.**

13 **[(d) CERTIFICATION OF AUTHORIZED INVES-**
14 **TIGATIVE AGENCIES OR AUTHORIZED ADJUDICA-**
15 **TIVE AGENCIES.—The Director shall evaluate**
16 **the extent to which an agency is submitting**
17 **information to, and requesting information**
18 **from, the national database established under**
19 **subsection (a) as part of a determination of**
20 **whether to certify the agency as an author-**
21 **ized investigative agency or authorized adju-**
22 **dicative agency.**

23 **[(e) EXCLUSION OF CERTAIN INTELLIGENCE**
24 **OPERATIVES.—The Director may authorize an**
25 **agency to withhold information about certain**

1 individuals from the database established
2 under subsection (a) if the Director deter-
3 mines it is necessary for national security
4 purposes.

5 [(f) COMPLIANCE.—The Director shall es-
6 tablish a review procedure by which agencies
7 can seek review of actions required under
8 section 5073.

9 [(g) AUTHORIZATION OF APPROPRIATIONS.—
10 There is authorized to be appropriated such
11 sums as may be necessary for fiscal year 2005
12 and each subsequent fiscal year for the imple-
13 mentation, maintenance and operation of the
14 database established in subsection (a).

15 [SEC. 5075. USE OF AVAILABLE TECHNOLOGY IN CLEAR-
16 ANCE INVESTIGATIONS.

17 [(a) INVESTIGATIONS.—Not later than 12
18 months after the date of the enactment of this
19 Act, each authorized investigative agency
20 that conducts personnel security clearance
21 investigations shall use, to the maximum ex-
22 tent practicable, available information tech-
23 nology and databases to expedite investiga-
24 tive processes and to verify standard informa-

1 tion submitted as part of an application for a
2 security clearance.

3 **[(b) INTERIM CLEARANCE.—If the applica-**
4 **tion of an applicant for an interim clearance**
5 **has been processed using the technology**
6 **under subsection (a), the interim clearances**
7 **for the applicant at the secret, top secret, and**
8 **special access program levels may be granted**
9 **before the completion of the appropriate in-**
10 **vestigation. Any request to process an interim**
11 **clearance shall be given priority, and the au-**
12 **thority granting the interim clearance shall**
13 **ensure that final adjudication on the applica-**
14 **tion is made within 90 days after the initial**
15 **clearance is granted.**

16 **[(c) ON-GOING MONITORING OF INDIVIDUALS**
17 **WITH SECURITY CLEARANCES.—(1) Authorized**
18 **investigative agencies and authorized adju-**
19 **dicative agencies shall establish procedures**
20 **for the regular, ongoing verification of per-**
21 **sonnel with security clearances in effect for**
22 **continued access to classified information.**
23 **Such procedures shall include the use of**
24 **available technology to detect, on a regularly**
25 **recurring basis, any issues of concern that**

1 may arise involving such personnel and such
2 access.

3 [(2) Such regularly recurring verification
4 may be used as a basis for terminating a secu-
5 rity clearance or access and shall be used in
6 periodic reinvestigations to address emerging
7 threats and adverse events associated with in-
8 dividuals with security clearances in effect to
9 the maximum extent practicable.

10 [(3) If the Director certifies that the na-
11 tional security of the United States is not
12 harmed by the discontinuation of periodic re-
13 investigations, the regularly recurring
14 verification under this section may replace
15 periodic reinvestigations.

16 [SEC. 5076. REDUCTION IN LENGTH OF PERSONNEL SECU-
17 RITY CLEARANCE PROCESS.

18 [(a) 60-DAY PERIOD FOR DETERMINATION ON
19 CLEARANCES.—Each authorized adjudicative
20 agency shall make a determination on an ap-
21 plication for a personnel security clearance
22 within 60 days after the date of receipt of the
23 completed application for a security clear-
24 ance by an authorized investigative agency.
25 The 60-day period shall include—

1 **[(1) a period of not longer than 40**
2 **days to complete the investigative phase**
3 **of the clearance review; and**

4 **[(2) a period of not longer than 20**
5 **days to complete the adjudicative phase**
6 **of the clearance review.**

7 **[(b) EFFECTIVE DATE AND PHASE-IN.—**

8 **[(1) EFFECTIVE DATE.—Subsection (a)**
9 **shall take effect 5 years after the date of**
10 **the enactment of this Act.**

11 **[(2) PHASE-IN.—During the period be-**
12 **ginning on a date not later than 2 years**
13 **after the date after the enactment of this**
14 **Act and ending on the date on which sub-**
15 **section (a) takes effect as specified in**
16 **paragraph (1), each authorized adjudica-**
17 **tive agency shall make a determination**
18 **on an application for a personnel secu-**
19 **rity clearance pursuant to this title with-**
20 **in 120 days after the date of receipt of the**
21 **application for a security clearance by an**
22 **authorized investigative agency. The 120-**
23 **day period shall include—**

1 **[(A) a period of not longer than**
2 **90 days to complete the investigative**
3 **phase of the clearance review; and**

4 **[(B) a period of not longer than**
5 **30 days to complete the adjudicative**
6 **phase of the clearance review.**

7 **[SEC. 5077. SECURITY CLEARANCES FOR PRESIDENTIAL**
8 **TRANSITION.**

9 **[(a) CANDIDATES FOR NATIONAL SECURITY**
10 **POSITIONS.—(1) The President-elect shall sub-**
11 **mit to the Director the names of candidates**
12 **for high-level national security positions, for**
13 **positions at the level of under secretary of ex-**
14 **ecutive departments and above, as soon as**
15 **possible after the date of the general elections**
16 **held to determine the electors of President**
17 **and Vice President under section 1 or 2 of**
18 **title 3, United States Code.**

19 **[(2) The Director shall be responsible for**
20 **the expeditious completion of the background**
21 **investigations necessary to provide appro-**
22 **priate security clearances to the individuals**
23 **who are candidates described under para-**
24 **graph (1) before the date of the inauguration**
25 **of the President-elect as President and the in-**

1 **auguration of the Vice-President-elect as Vice**
2 **President.**

3 **[(b) SECURITY CLEARANCES FOR TRANSITION**
4 **TEAM MEMBERS.—(1) In this section, the term**
5 **“major party” has the meaning provided**
6 **under section 9002(6) of the Internal Revenue**
7 **Code of 1986.**

8 **[(2) Each major party candidate for Presi-**
9 **dent, except a candidate who is the incum-**
10 **bent President, shall submit, before the date**
11 **of the general presidential election, requests**
12 **for security clearances for prospective transi-**
13 **tion team members who will have a need for**
14 **access to classified information to carry out**
15 **their responsibilities as members of the Presi-**
16 **dent-elect’s transition team.**

17 **[(3) Necessary background investigations**
18 **and eligibility determinations to permit ap-**
19 **propriate prospective transition team mem-**
20 **bers to have access to classified information**
21 **shall be completed, to the fullest extent prac-**
22 **ticable, by the day after the date of the gen-**
23 **eral presidential election.**

1 [SEC. 5078. REPORTS.

2 [Not later than February 15, 2006, and an-
3 nually thereafter through 2016, the Director
4 shall submit to the appropriate committees of
5 Congress a report on the progress made dur-
6 ing the preceding year toward meeting the re-
7 quirements specified in this Act. The report
8 shall include—

9 [(1) the periods of time required by
10 the authorized investigative agencies and
11 authorized adjudicative agencies during
12 the year covered by the report for con-
13 ducting investigations, adjudicating
14 cases, and granting clearances, from date
15 of submission to ultimate disposition and
16 notification to the subject and the sub-
17 ject's employer;

18 [(2) a discussion of any impediments
19 to the smooth and timely functioning of
20 the implementation of this title; and

21 [(3) such other information or rec-
22 ommendations as the Deputy Director
23 deems appropriate.

1 **[Subtitle G—Emergency Financial**
2 **Preparedness**

3 **[SEC. 5081. DELEGATION AUTHORITY OF THE SECRETARY**
4 **OF THE TREASURY.**

5 **[Subsection (d) of section 306 of title 31,**
6 **United States Code, is amended by inserting**
7 **“or employee” after “another officer”.**

8 **[SEC. 5082. EXTENSION OF EMERGENCY ORDER AUTHOR-**
9 **ITY OF THE SECURITIES AND EXCHANGE**
10 **COMMISSION.**

11 **[(a) EXTENSION OF AUTHORITY.—Paragraph**
12 **(2) of section 12(k) of the Securities Exchange**
13 **Act of 1934 (15 U.S.C. 78l(k)(2)) is amended to**
14 **read as follows:**

15 **[“(2) EMERGENCY ORDERS.—(A) The**
16 **Commission, in an emergency, may by**
17 **order summarily take such action to**
18 **alter, supplement, suspend, or impose re-**
19 **quirements or restrictions with respect to**
20 **any matter or action subject to regula-**
21 **tion by the Commission or a self-regu-**
22 **latory organization under the securities**
23 **laws, as the Commission determines is**
24 **necessary in the public interest and for**
25 **the protection of investors—**

1 **[(“i) to maintain or restore fair**
2 **and orderly securities markets (other**
3 **than markets in exempted securities);**

4 **[(“ii) to ensure prompt, accurate,**
5 **and safe clearance and settlement of**
6 **transactions in securities (other than**
7 **exempted securities); or**

8 **[(“iii) to reduce, eliminate, or pre-**
9 **vent the substantial disruption by the**
10 **emergency of (I) securities markets**
11 **(other than markets in exempted se-**
12 **curities), investment companies, or**
13 **any other significant portion or seg-**
14 **ment of such markets, or (II) the**
15 **transmission or processing of securi-**
16 **ties transactions (other than trans-**
17 **actions in exempted securities).**

18 **[(“B) An order of the Commission**
19 **under this paragraph (2) shall continue**
20 **in effect for the period specified by the**
21 **Commission, and may be extended. Ex-**
22 **cept as provided in subparagraph (C), the**
23 **Commission’s action may not continue in**
24 **effect for more than 30 business days, in-**
25 **cluding extensions.**

1 **[(C) An order of the Commission**
2 **under this paragraph (2) may be ex-**
3 **tended to continue in effect for more**
4 **than 30 business days if, at the time of**
5 **the extension, the Commission finds that**
6 **the emergency still exists and determines**
7 **that the continuation of the order beyond**
8 **30 business days is necessary in the pub-**
9 **lic interest and for the protection of in-**
10 **vestors to attain an objective described**
11 **in clause (i), (ii), or (iii) of subparagraph**
12 **(A). In no event shall an order of the**
13 **Commission under this paragraph (2)**
14 **continue in effect for more than 90 cal-**
15 **endar days.**

16 **[(D) If the actions described in sub-**
17 **paragraph (A) involve a security futures**
18 **product, the Commission shall consult**
19 **with and consider the views of the Com-**
20 **modity Futures Trading Commission. In**
21 **exercising its authority under this para-**
22 **graph, the Commission shall not be re-**
23 **quired to comply with the provisions of**
24 **section 553 of title 5, United States Code,**

1 or with the provisions of section 19(c) of
2 this title.

3 [(E) Notwithstanding the exclusion
4 of exempted securities (and markets
5 therein) from the Commission's authority
6 under subparagraph (A), the Commission
7 may use such authority to take action to
8 alter, supplement, suspend, or impose re-
9 quirements or restrictions with respect to
10 clearing agencies for transactions in such
11 exempted securities. In taking any action
12 under this subparagraph, the Commis-
13 sion shall consult with and consider the
14 views of the Secretary of the Treasury.”.

15 [(b) CONSULTATION; DEFINITION OF EMER-
16 GENCY.—Section 12(k) of the Securities Ex-
17 change Act of 1934 (15 U.S.C. 78l(k)) is further
18 amended by striking paragraph (6) and in-
19 serting the following:

20 [(6) CONSULTATION.—Prior to taking
21 any action described in paragraph (1)(B),
22 the Commission shall consult with and
23 consider the views of the Secretary of the
24 Treasury, Board of Governors of the Fed-
25 eral Reserve System, and the Commodity

1 **Futures Trading Commission, unless such**
2 **consultation is impracticable in light of**
3 **the emergency.**

4 **[(7) DEFINITIONS.—**

5 **[(A) EMERGENCY.—For purposes**
6 **of this subsection, the term ‘emer-**
7 **gency’ means—**

8 **[(i) a major market disturb-**
9 **ance characterized by or consti-**
10 **tuting—**

11 **[(I) sudden and excessive**
12 **fluctuations of securities**
13 **prices generally, or a substan-**
14 **tial threat thereof, that**
15 **threaten fair and orderly mar-**
16 **kets; or**

17 **[(II) a substantial disrup-**
18 **tion of the safe or efficient op-**
19 **eration of the national system**
20 **for clearance and settlement**
21 **of transactions in securities,**
22 **or a substantial threat there-**
23 **of; or**

1 **[(“ii) a major disturbance that**
2 **substantially disrupts, or threat-**
3 **ens to substantially disrupt—**

4 **[(“I) the functioning of se-**
5 **curities markets, investment**
6 **companies, or any other sig-**
7 **nificant portion or segment of**
8 **the securities markets; or**

9 **[(“II) the transmission or**
10 **processing of securities trans-**
11 **actions.**

12 **[(“B) SECURITIES LAWS.—Notwith-**
13 **standing section 3(a)(47), for pur-**
14 **poses of this subsection, the term ‘se-**
15 **curities laws’ does not include the**
16 **Public Utility Holding Company Act**
17 **of 1935 (15 U.S.C. 79a et seq.).”.**

18 **[SEC. 5083. PARALLEL AUTHORITY OF THE SECRETARY OF**
19 **THE TREASURY WITH RESPECT TO GOVERN-**
20 **MENT SECURITIES.**

21 **[Section 15C of the Securities Exchange**
22 **Act of 1934 (15 U.S.C. 78o–5) is amended by**
23 **adding at the end the following new sub-**
24 **section:**

1 **[(h) EMERGENCY AUTHORITY.—The Sec-**
 2 **retary may by order take any action with re-**
 3 **spect to a matter or action subject to regula-**
 4 **tion by the Secretary under this section, or**
 5 **the rules of the Secretary thereunder, involv-**
 6 **ing a government security or a market there-**
 7 **in (or significant portion or segment of that**
 8 **market), that the Commission may take under**
 9 **section 12(k)(2) of this title with respect to**
 10 **transactions in securities (other than exempt-**
 11 **ed securities) or a market therein (or signifi-**
 12 **cant portion or segment of that market).”.**

13 **[Subtitle H—Other Matters**

14 **[CHAPTER 1—PRIVACY MATTERS**

15 **[SEC. 5091. REQUIREMENT THAT AGENCY RULEMAKING**
 16 **TAKE INTO CONSIDERATION IMPACTS ON IN-**
 17 **DIVIDUAL PRIVACY.**

18 **[(a) SHORT TITLE.—This section may be**
 19 **cited as the “Federal Agency Protection of**
 20 **Privacy Act of 2004”.**

21 **[(b) IN GENERAL.—Title 5, United States**
 22 **Code, is amended by adding after section 553**
 23 **the following new section:**

1 **["§ 553a. Privacy impact assessment in rulemaking**

2 **["(a) INITIAL PRIVACY IMPACT ASSESS-**
3 **MENT.—**

4 **["(1) IN GENERAL.—Whenever an agen-**
5 **cy is required by section 553 of this title,**
6 **or any other law, to publish a general no-**
7 **tice of proposed rulemaking for a pro-**
8 **posed rule, or publishes a notice of pro-**
9 **posed rulemaking for an interpretative**
10 **rule involving the internal revenue laws**
11 **of the United States, and such rule or**
12 **proposed rulemaking pertains to the col-**
13 **lection, maintenance, use, or disclosure**
14 **of personally identifiable information**
15 **from 10 or more individuals, other than**
16 **agencies, instrumentalities, or employees**
17 **of the Federal government, the agency**
18 **shall prepare and make available for pub-**
19 **lic comment an initial privacy impact as-**
20 **essment that describes the impact of the**
21 **proposed rule on the privacy of individ-**
22 **uals. Such assessment or a summary**
23 **thereof shall be signed by the senior**
24 **agency official with primary responsi-**
25 **bility for privacy policy and be published**
26 **in the Federal Register at the time of the**

1 publication of a general notice of pro-
2 posed rulemaking for the rule.

3 [(2) CONTENTS.—Each initial privacy
4 impact assessment required under this
5 subsection shall contain the following:

6 [(A) A description and analysis
7 of the extent to which the proposed
8 rule will impact the privacy interests
9 of individuals, including the extent to
10 which the proposed rule—

11 [(i) provides notice of the
12 collection of personally identifi-
13 able information, and specifies
14 what personally identifiable in-
15 formation is to be collected and
16 how it is to be collected, main-
17 tained, used, and disclosed;

18 [(ii) allows access to such in-
19 formation by the person to whom
20 the personally identifiable infor-
21 mation pertains and provides an
22 opportunity to correct inaccura-
23 cies;

24 [(iii) prevents such informa-
25 tion, which is collected for one

1 purpose, from being used for an-
2 other purpose; and

3 [“(iv) provides security for
4 such information.

5 [“(B) A description of any signifi-
6 cant alternatives to the proposed rule
7 which accomplish the stated objec-
8 tives of applicable statutes and which
9 minimize any significant privacy im-
10 pact of the proposed rule on individ-
11 uals.

12 [“(b) FINAL PRIVACY IMPACT ASSESSMENT.—

13 [“(1) IN GENERAL.—Whenever an agen-
14 cy promulgates a final rule under section
15 553 of this title, after being required by
16 that section or any other law to publish a
17 general notice of proposed rulemaking,
18 or promulgates a final interpretative rule
19 involving the internal revenue laws of
20 the United States, and such rule or pro-
21 posed rulemaking pertains to the collec-
22 tion, maintenance, use, or disclosure of
23 personally identifiable information from
24 10 or more individuals, other than agen-
25 cies, instrumentalities, or employees of

1 the Federal government, the agency shall
2 prepare a final privacy impact assess-
3 ment, signed by the senior agency official
4 with primary responsibility for privacy
5 policy.

6 [“(2) CONTENTS.—Each final privacy
7 impact assessment required under this
8 subsection shall contain the following:

9 [“(A) A description and analysis
10 of the extent to which the final rule
11 will impact the privacy interests of
12 individuals, including the extent to
13 which such rule—

14 [“(i) provides notice of the
15 collection of personally identifi-
16 able information, and specifies
17 what personally identifiable in-
18 formation is to be collected and
19 how it is to be collected, main-
20 tained, used, and disclosed;

21 [“(ii) allows access to such in-
22 formation by the person to whom
23 the personally identifiable infor-
24 mation pertains and provides an

1 **opportunity to correct inaccura-**
2 **cies;**

3 **[(iii) prevents such informa-**
4 **tion, which is collected for one**
5 **purpose, from being used for an-**
6 **other purpose; and**

7 **[(iv) provides security for**
8 **such information.**

9 **[(B) A summary of any signifi-**
10 **cant issues raised by the public com-**
11 **ments in response to the initial pri-**
12 **vacY impact assessment, a summary**
13 **of the analysis of the agency of such**
14 **issues, and a statement of any**
15 **changes made in such rule as a result**
16 **of such issues.**

17 **[(C) A description of the steps**
18 **the agency has taken to minimize the**
19 **significant privacy impact on individ-**
20 **uals consistent with the stated objec-**
21 **tives of applicable statutes, including**
22 **a statement of the factual, policy, and**
23 **legal reasons for selecting the alter-**
24 **native adopted in the final rule and**
25 **why each one of the other significant**

1 alternatives to the rule considered by
2 the agency which affect the privacy
3 interests of individuals was rejected.

4 **[(3) AVAILABILITY TO PUBLIC.—The**
5 **agency shall make copies of the final pri-**
6 **vacy impact assessment available to**
7 **members of the public and shall publish**
8 **in the Federal Register such assessment**
9 **or a summary thereof.**

10 **[(c) WAIVERS.—**

11 **[(1) EMERGENCIES.—An agency head**
12 **may waive or delay the completion of**
13 **some or all of the requirements of sub-**
14 **sections (a) and (b) to the same extent as**
15 **the agency head may, under section 608,**
16 **waive or delay the completion of some or**
17 **all of the requirements of sections 603**
18 **and 604, respectively.**

19 **[(2) NATIONAL SECURITY.—An agency**
20 **head may, for national security reasons,**
21 **or to protect from disclosure classified**
22 **information, confidential commercial in-**
23 **formation, or information the disclosure**
24 **of which may adversely affect a law en-**
25 **forcement effort, waive or delay the com-**

1 pletion of some or all of the following re-
2 quirements:

3 [“(A) The requirement of sub-
4 section (a)(1) to make an assessment
5 available for public comment.

6 [“(B) The requirement of sub-
7 section (a)(1) to have an assessment
8 or summary thereof published in the
9 Federal Register.

10 [“(C) The requirements of sub-
11 section (b)(3).

12 [“(d) PROCEDURES FOR GATHERING COM-
13 MENTS.—When any rule is promulgated which
14 may have a significant privacy impact on in-
15 dividuals, or a privacy impact on a substan-
16 tial number of individuals, the head of the
17 agency promulgating the rule or the official of
18 the agency with statutory responsibility for
19 the promulgation of the rule shall assure that
20 individuals have been given an opportunity to
21 participate in the rulemaking for the rule
22 through techniques such as—

23 [“(1) the inclusion in an advance no-
24 tice of proposed rulemaking, if issued, of
25 a statement that the proposed rule may

1 **have a significant privacy impact on indi-**
2 **viduals, or a privacy impact on a substan-**
3 **tial number of individuals;**

4 **[(2) the publication of a general no-**
5 **tice of proposed rulemaking in publica-**
6 **tions of national circulation likely to be**
7 **obtained by individuals;**

8 **[(3) the direct notification of inter-**
9 **ested individuals;**

10 **[(4) the conduct of open conferences**
11 **or public hearings concerning the rule**
12 **for individuals, including soliciting and**
13 **receiving comments over computer net-**
14 **works; and**

15 **[(5) the adoption or modification of**
16 **agency procedural rules to reduce the**
17 **cost or complexity of participation in the**
18 **rulemaking by individuals.**

19 **[(e) PERIODIC REVIEW OF RULES.—**

20 **[(1) IN GENERAL.—Each agency shall**
21 **carry out a periodic review of the rules**
22 **promulgated by the agency that have a**
23 **significant privacy impact on individuals,**
24 **or a privacy impact on a substantial num-**
25 **ber of individuals. Under such periodic**

1 review, the agency shall determine, for
2 each such rule, whether the rule can be
3 amended or rescinded in a manner that
4 minimizes any such impact while remain-
5 ing in accordance with applicable stat-
6 utes. For each such determination, the
7 agency shall consider the following fac-
8 tors:

9 ["(A) The continued need for the
10 rule.

11 ["(B) The nature of complaints or
12 comments received from the public
13 concerning the rule.

14 ["(C) The complexity of the rule.

15 ["(D) The extent to which the rule
16 overlaps, duplicates, or conflicts with
17 other Federal rules, and, to the extent
18 feasible, with State and local govern-
19 mental rules.

20 ["(E) The length of time since the
21 rule was last reviewed under this
22 subsection.

23 ["(F) The degree to which tech-
24 nology, economic conditions, or other
25 factors have changed in the area af-

1 fected by the rule since the rule was
2 last reviewed under this subsection.

3 **[(2) PLAN REQUIRED.—Each agency**
4 **shall carry out the periodic review re-**
5 **quired by paragraph (1) in accordance**
6 **with a plan published by such agency in**
7 **the Federal Register. Each such plan**
8 **shall provide for the review under this**
9 **subsection of each rule promulgated by**
10 **the agency not later than 10 years after**
11 **the date on which such rule was pub-**
12 **lished as the final rule and, thereafter,**
13 **not later than 10 years after the date on**
14 **which such rule was last reviewed under**
15 **this subsection. The agency may amend**
16 **such plan at any time by publishing the**
17 **revision in the Federal Register.**

18 **[(3) ANNUAL PUBLICATION.—Each**
19 **year, each agency shall publish in the**
20 **Federal Register a list of the rules to be**
21 **reviewed by such agency under this sub-**
22 **section during the following year. The**
23 **list shall include a brief description of**
24 **each such rule and the need for and legal**
25 **basis of such rule and shall invite public**

1 **comment upon the determination to be**
2 **made under this subsection with respect**
3 **to such rule.**

4 **[(f) JUDICIAL REVIEW.—**

5 **[(1) IN GENERAL.—For any rule sub-**
6 **ject to this section, an individual who is**
7 **adversely affected or aggrieved by final**
8 **agency action is entitled to judicial re-**
9 **view of agency compliance with the re-**
10 **quirements of subsections (b) and (c) in**
11 **accordance with chapter 7. Agency com-**
12 **pliance with subsection (d) shall be judi-**
13 **cially reviewable in connection with judi-**
14 **cial review of subsection (b).**

15 **[(2) JURISDICTION.—Each court hav-**
16 **ing jurisdiction to review such rule for**
17 **compliance with section 553, or under**
18 **any other provision of law, shall have ju-**
19 **risdiction to review any claims of non-**
20 **compliance with subsections (b) and (c)**
21 **in accordance with chapter 7. Agency**
22 **compliance with subsection (d) shall be**
23 **judicially reviewable in connection with**
24 **judicial review of subsection (b).**

25 **[(3) LIMITATIONS.—**

1 **[(A) An individual may seek such**
2 **review during the period beginning**
3 **on the date of final agency action and**
4 **ending 1 year later, except that**
5 **where a provision of law requires**
6 **that an action challenging a final**
7 **agency action be commenced before**
8 **the expiration of 1 year, such lesser**
9 **period shall apply to an action for ju-**
10 **dicial review under this subsection.**

11 **[(B) In the case where an agency**
12 **delays the issuance of a final privacy**
13 **impact assessment pursuant to sub-**
14 **section (c), an action for judicial re-**
15 **view under this section shall be filed**
16 **not later than—**

17 **[(i) 1 year after the date the**
18 **assessment is made available to**
19 **the public; or**

20 **[(ii) where a provision of law**
21 **requires that an action chal-**
22 **lenging a final agency regulation**
23 **be commenced before the expira-**
24 **tion of the 1-year period, the**
25 **number of days specified in such**

1 provision of law that is after the
2 date the assessment is made
3 available to the public.

4 **[(4) RELIEF.—In granting any relief**
5 **in an action under this subsection, the**
6 **court shall order the agency to take cor-**
7 **rective action consistent with this section**
8 **and chapter 7, including, but not limited**
9 **to—**

10 **[(A) remanding the rule to the**
11 **agency; and**

12 **[(B) deferring the enforcement**
13 **of the rule against individuals, unless**
14 **the court finds that continued en-**
15 **forcement of the rule is in the public**
16 **interest.**

17 **[(5) RULE OF CONSTRUCTION.—Noth-**
18 **ing in this subsection shall be construed**
19 **to limit the authority of any court to stay**
20 **the effective date of any rule or provision**
21 **thereof under any other provision of law**
22 **or to grant any other relief in addition to**
23 **the requirements of this subsection.**

24 **[(6) RECORD OF AGENCY ACTION.—In**
25 **an action for the judicial review of a rule,**

1 the privacy impact assessment for such
2 rule, including an assessment prepared
3 or corrected pursuant to paragraph (4),
4 shall constitute part of the entire record
5 of agency action in connection with such
6 review.

7 **[(7) EXCLUSIVITY.—Compliance or**
8 **noncompliance by an agency with the**
9 **provisions of this section shall be subject**
10 **to judicial review only in accordance**
11 **with this subsection.**

12 **[(8) SAVINGS CLAUSE.—Nothing in this**
13 **subsection bars judicial review of any**
14 **other impact statement or similar assess-**
15 **ment required by any other law if judi-**
16 **cial review of such statement or assess-**
17 **ment is otherwise permitted by law.**

18 **[(g) DEFINITION.—For purposes of this**
19 **section, the term ‘personally identifiable in-**
20 **formation’ means information that can be**
21 **used to identify an individual, including such**
22 **individual’s name, address, telephone num-**
23 **ber, photograph, social security number or**
24 **other identifying information. It includes in-**

1 formation about such individual's medical or
2 financial condition.”.

3 [(c) PERIODIC REVIEW TRANSITION PROVI-
4 SIONS.—

5 [(1) INITIAL PLAN.—For each agency,
6 the plan required by subsection (e) of sec-
7 tion 553a of title 5, United States Code (as
8 added by subsection (a)), shall be pub-
9 lished not later than 180 days after the
10 date of the enactment of this Act.

11 [(2) In the case of a rule promulgated
12 by an agency before the date of the enact-
13 ment of this Act, such plan shall provide
14 for the periodic review of such rule be-
15 fore the expiration of the 10-year period
16 beginning on the date of the enactment of
17 this Act. For any such rule, the head of
18 the agency may provide for a 1-year ex-
19 tension of such period if the head of the
20 agency, before the expiration of the pe-
21 riod, certifies in a statement published in
22 the Federal Register that reviewing such
23 rule before the expiration of the period is
24 not feasible. The head of the agency may
25 provide for additional 1-year extensions

1 of the period pursuant to the preceding
2 sentence, but in no event may the period
3 exceed 15 years.

4 [(d) CONGRESSIONAL REVIEW.—Section
5 801(a)(1)(B) of title 5, United States Code, is
6 amended—

7 [(1) by redesignating clauses (iii) and
8 (iv) as clauses (iv) and (v), respectively;
9 and

10 [(2) by inserting after clause (ii) the
11 following new clause:

12 [“(iii) the agency’s actions relevant to
13 section 553a;”.

14 [(e) CLERICAL AMENDMENT.—The table of
15 sections at the beginning of chapter 5 of title
16 5, United States Code, is amended by adding
17 after the item relating to section 553 the fol-
18 lowing new item:

[“553a. Privacy impact assessment in rulemaking.”.

19 [SEC. 5092. CHIEF PRIVACY OFFICERS FOR AGENCIES WITH
20 LAW ENFORCEMENT OR ANTI-TERRORISM
21 FUNCTIONS.

22 [(a) IN GENERAL.—There shall be within
23 each Federal agency with law enforcement or
24 anti-terrorism functions a chief privacy offi-
25 cer, who shall have primary responsibility

1 within that agency for privacy policy. The
2 agency chief privacy officer shall be des-
3 ignated by the head of the agency.

4 [(b) RESPONSIBILITIES.—The responsibil-
5 ities of each agency chief privacy officer shall
6 include—

7 [(1) ensuring that the use of tech-
8 nologies sustains, and does not erode, pri-
9 vacy protections relating to the use, col-
10 lection, and disclosure of personally iden-
11 tifiable information;

12 [(2) ensuring that personally identifi-
13 able information contained in systems of
14 records is handled in full compliance
15 with fair information practices as set out
16 in section 552a of title 5, United States
17 Code;

18 [(3) evaluating legislative and regu-
19 latory proposals involving collection, use,
20 and disclosure of personally identifiable
21 information by the Federal Government;

22 [(4) conducting a privacy impact as-
23 sessment of proposed rules of the agency
24 on the privacy of personally identifiable
25 information, including the type of person-

1 ally identifiable information collected
2 and the number of people affected;

3 [(5) preparing and submitting a re-
4 port to Congress on an annual basis on
5 activities of the agency that affect pri-
6 vacy, including complaints of privacy vio-
7 lations, implementation of section 552a of
8 title 5, United States Code, internal con-
9 trols, and other relevant matters;

10 [(6) ensuring that the agency protects
11 personally identifiable information and
12 information systems from unauthorized
13 access, use, disclosure, disruption, modi-
14 fication, or destruction in order to pro-
15 vide—

16 [(A) integrity, which means
17 guarding against improper informa-
18 tion modification or destruction, and
19 includes ensuring information non-
20 repudiation and authenticity;

21 [(B) confidentially, which means
22 preserving authorized restrictions on
23 access and disclosure, including
24 means for protecting personal pri-
25 vacy and proprietary information;

1 **[(C) availability, which means en-**
2 **suring timely and reliable access to**
3 **and use of that information; and**

4 **[(D) authentication, which means**
5 **utilizing digital credentials to assure**
6 **the identity of users and validate**
7 **their access; and**

8 **[(7) advising the head of the agency**
9 **and the Director of the Office of Manage-**
10 **ment and Budget on information security**
11 **and privacy issues pertaining to Federal**
12 **Government information systems.**

13 **[SEC. 5093. DATA-MINING REPORT.**

14 **[(a) DEFINITIONS.—In this section:**

15 **[(1) DATA-MINING.—The term “data-**
16 **mining” means a query or search or other**
17 **analysis of 1 or more electronic data-**
18 **bases, where—**

19 **[(A) at least 1 of the databases**
20 **was obtained from or remains under**
21 **the control of a non-Federal entity, or**
22 **the information was acquired ini-**
23 **tially by another department or agen-**
24 **cy of the Federal Government for**

1 purposes other than intelligence or
2 law enforcement;

3 [(B) the search does not use a
4 specific individual's personal identi-
5 fiers to acquire information con-
6 cerning that individual; and

7 [(C) a department or agency of
8 the Federal Government is con-
9 ducting the query or search or other
10 analysis to find a pattern indicating
11 terrorist or other criminal activity.

12 [(2) DATABASE.—The term “database”
13 does not include telephone directories,
14 information publicly available via the
15 Internet or available by any other means
16 to any member of the public without pay-
17 ment of a fee, or databases of judicial and
18 administrative opinions.

19 [(b) REPORTS ON DATA-MINING ACTIVI-
20 TIES.—

21 [(1) REQUIREMENT FOR REPORT.—The
22 head of each department or agency of the
23 Federal Government that is engaged in
24 any activity to use or develop data-min-
25 ing technology shall each submit a public

1 report to Congress on all such activities
2 of the department or agency under the
3 jurisdiction of that official.

4 **[(2) CONTENT OF REPORT.—A report**
5 **submitted under paragraph (1) shall in-**
6 **clude, for each activity to use or develop**
7 **data-mining technology that is required**
8 **to be covered by the report, the following**
9 **information:**

10 **[(A) A thorough description of the**
11 **data-mining technology and the data**
12 **that will be used.**

13 **[(B) A thorough discussion of the**
14 **plans for the use of such technology**
15 **and the target dates for the deploy-**
16 **ment of the data-mining technology.**

17 **[(C) An assessment of the likely**
18 **efficacy of the data-mining tech-**
19 **nology in providing accurate and val-**
20 **uable information consistent with the**
21 **stated plans for the use of the tech-**
22 **nology.**

23 **[(D) An assessment of the likely**
24 **impact of the implementation of the**

1 **data-mining technology on privacy**
2 **and civil liberties.**

3 **[(E) A list and analysis of the**
4 **laws and regulations that govern the**
5 **information to be collected, reviewed,**
6 **gathered, and analyzed with the data-**
7 **mining technology and a description**
8 **of any modifications of such laws that**
9 **will be required to use the informa-**
10 **tion in the manner proposed under**
11 **such program.**

12 **[(F) A thorough discussion of the**
13 **policies, procedures, and guidelines**
14 **that are to be developed and applied**
15 **in the use of such technology for**
16 **data-mining in order to—**

17 **[(i) protect the privacy and**
18 **due process rights of individuals;**
19 **and**

20 **[(ii) ensure that only accurate**
21 **information is collected and used.**

22 **[(G) A thorough discussion of the**
23 **procedures allowing individuals**
24 **whose personal information will be**
25 **used in the data-mining technology to**

1 be informed of the use of their per-
2 sonal information and what proce-
3 dures are in place to allow for indi-
4 viduals to opt out of the technology,
5 and, if no such procedures are in
6 place, a thorough explanation as to
7 why not.

8 [(H) Any necessary classified in-
9 formation in an annex that shall be
10 available to the Committee on Gov-
11 ernmental Affairs, the Committee on
12 the Judiciary, and the Committee on
13 Appropriations of the Senate and the
14 Committee on Homeland Security,
15 the Committee on the Judiciary, and
16 the Committee on Appropriations of
17 the House of Representatives.

18 [(3) TIME FOR REPORT.—Each report
19 required under paragraph (1) shall be—

20 [(A) submitted not later than 90
21 days after the date of the enactment
22 of this Act; and

23 [(B) updated once a year and in-
24 clude any new data-mining tech-
25 nologies.

1 [SEC. 5094. PRIVACY AND CIVIL LIBERTIES OVERSIGHT
2 BOARD.

3 [(a) IN GENERAL.—There is established
4 within the Executive Branch an Independent
5 Privacy and Civil Liberties Oversight Board
6 (referred to in this section as the “Board”).

7 [(b) FINDINGS.—Consistent with the report
8 of the National Commission on Terrorist At-
9 tacks Upon the United States, Congress
10 makes the following findings:

11 [(1) In conducting the war on ter-
12 rorism, the Government may need addi-
13 tional powers and may need to enhance
14 the use of its existing powers.

15 [(2) This shift of power and authority
16 to the Government calls for an enhanced
17 system of checks and balances to protect
18 the precious liberties that are vital to our
19 way of life and to ensure that the Govern-
20 ment uses its powers for the purposes for
21 which the powers were given.

22 [(c) PURPOSE.—The Board shall—

23 [(1) analyze and review actions the
24 Executive Branch takes to protect the
25 Nation from terrorism as such actions
26 pertain to privacy or civil liberties; and

1 **[(2) ensure that privacy and civil lib-**
2 **erties concerns are appropriately consid-**
3 **ered in the development and implementa-**
4 **tion of laws, regulations, and policies re-**
5 **lated to efforts to protect the Nation**
6 **against terrorism.**

7 **[(d) FUNCTIONS.—**

8 **[(1) ADVICE AND COUNSEL ON POLICY**
9 **DEVELOPMENT AND IMPLEMENTATION.—The**
10 **Board shall—**

11 **[(A) review the privacy and civil**
12 **liberties implications of proposed leg-**
13 **islation, regulations, and policies re-**
14 **lated to efforts to protect the Nation**
15 **from terrorism, including the devel-**
16 **opment and adoption of information**
17 **sharing guidelines under section 892**
18 **of the Homeland Security Act;**

19 **[(B) review the privacy and civil**
20 **liberties implications of the imple-**
21 **mentation of new and existing legisla-**
22 **tion, regulations, and policies related**
23 **to efforts to protect the Nation from**
24 **terrorism, including the implementa-**
25 **tion of information sharing guide-**

1 lines under section 892 of the Home-
2 land Security Act;

3 [(C) advise the President and
4 Federal executive departments and
5 agencies to ensure that privacy and
6 civil liberties are appropriately con-
7 sidered in the development and im-
8 plementation of such legislation, reg-
9 ulations, policies, and guidelines; and

10 [(D) in providing advice on pro-
11 posals to retain or enhance a par-
12 ticular governmental power, consider
13 whether the executive department or
14 agency has explained—

15 [(i) that the power actually
16 materially enhances security; and

17 [(ii) that there is adequate su-
18 pervision of the executive's use of
19 the power to ensure protection of
20 privacy and civil liberties.

21 [(2) OVERSIGHT.—The Board shall con-
22 tinually review—

23 [(A) the regulations, policies, and
24 procedures and the implementation
25 of the regulations, policies, proce-

1 dures, and related laws of Federal ex-
2 ecutive departments and agencies to
3 ensure that privacy and civil liberties
4 are protected;

5 [(B) the information sharing
6 practices of Federal executive depart-
7 ments and agencies to determine
8 whether they appropriately protect
9 privacy and civil liberties and adhere
10 to the information sharing guidelines
11 promulgated under section 892 of the
12 Homeland Security Act and to other
13 governing laws, regulations, and poli-
14 cies regarding privacy and civil lib-
15 erties; and

16 [(C) other actions by the Execu-
17 tive Branch related to efforts to pro-
18 tect the Nation from terrorism to de-
19 termine whether such actions—

20 [(i) appropriately protect pri-
21 vacy and civil liberties; and

22 [(ii) are consistent with gov-
23 erning laws, regulations, and poli-
24 cies regarding privacy and civil
25 liberties.

1 **[(3) RELATIONSHIP WITH PRIVACY OFFI-**
2 **CERS.—The Board shall—**

3 **[(A) review and assess reports**
4 **and other information from privacy**
5 **officers described in section 5092;**

6 **[(B) when appropriate, make rec-**
7 **ommendations to such privacy offi-**
8 **cers regarding their activities; and**

9 **[(C) when appropriate, coordi-**
10 **nate the activities of such privacy of-**
11 **ficers on relevant interagency mat-**
12 **ters.**

13 **[(4) TESTIMONY.—The Members of the**
14 **Board shall appear and testify before**
15 **Congress upon request.**

16 **[(e) REPORTS.—**

17 **[(1) IN GENERAL.—The Board shall—**

18 **[(A) receive and review reports**
19 **from privacy and civil liberties offi-**
20 **cers described in section 5092(b)(5);**
21 **and**

22 **[(B) periodically submit, not less**
23 **than semiannually, reports to Con-**
24 **gress and the President.**

1 **[(2) CONTENTS.—Not less than 2 re-**
2 **ports submitted each year under para-**
3 **graph (1)(B) shall include—**

4 **[(A) a description of the major ac-**
5 **tivities of the Board during the rel-**
6 **evant period; and**

7 **[(B) information on the findings,**
8 **conclusions, and recommendations of**
9 **the Board resulting from its advice**
10 **and oversight functions under sub-**
11 **section (d).**

12 **[(f) INFORMING THE PUBLIC.—The Board**
13 **shall hold public hearings, release public re-**
14 **ports, and otherwise inform the public of its**
15 **activities, as appropriate and in a manner**
16 **consistent with the protection of classified in-**
17 **formation, applicable law, and national secu-**
18 **rity.**

19 **[(g) ACCESS TO INFORMATION.—**

20 **[(1) AUTHORIZATION.—If determined**
21 **by the Board to be necessary to carry out**
22 **its responsibilities under this section, the**
23 **Board may—**

24 **[(A) secure directly from any Fed-**
25 **eral executive department or agency,**

1 or any Federal officer or employee,
2 all relevant records, reports, audits,
3 reviews, documents, papers, or rec-
4 ommendations, including classified
5 information consistent with applica-
6 ble law;

7 [(B) interview, take statements
8 from, or take public testimony from
9 personnel of any Federal executive
10 department or agency or any Federal
11 officer or employee; and

12 [(C) request information or assist-
13 ance from any State, tribal, or local
14 government.

15 [(2) OBTAINING OFFICIAL INFORMA-
16 TION.—

17 [(A) REQUIREMENT TO FURNISH.—
18 Except as provided in subparagraph
19 (B), if the Board submits a request to
20 a Federal department or agency for
21 information necessary to enable the
22 Board to carry out this section, the
23 head of such department or agency
24 shall furnish that information to the
25 Board.

1 **[(B) EXCEPTION FOR NATIONAL SE-**
2 **CURITY.—If the National Intelligence**
3 **Director, in consultation with the At-**
4 **torney General, determines that it is**
5 **necessary to withhold requested in-**
6 **formation from disclosure to protect**
7 **the national security interests of the**
8 **United States, the department or**
9 **agency head shall not furnish that in-**
10 **formation to the Board.**

11 **[(h) MEMBERSHIP.—**

12 **[(1) MEMBERS.—The Board shall be**
13 **composed of a chairman and 4 additional**
14 **members, who shall be appointed by the**
15 **President, by and with the advice and**
16 **consent of the Senate.**

17 **[(2) POLITICAL AFFILIATION.—Not more**
18 **than 3 members of the Board shall be of**
19 **the same political party.**

20 **[(3) QUALIFICATIONS.—Members of the**
21 **Board shall be selected solely on the**
22 **basis of their professional qualifications,**
23 **achievements, public stature, and rel-**
24 **evant experience, and without regard to**
25 **political affiliation. Members of the**

1 **Board shall also have extensive experi-**
2 **ence in the areas of privacy and civil**
3 **rights and liberties.**

4 **[(4) INCOMPATIBLE OFFICE.—An indi-**
5 **vidual appointed to the Board may not,**
6 **while serving on the Board, be an elected**
7 **official, an officer, or an employee of the**
8 **Federal Government, other than in the**
9 **capacity as a member of the Board.**

10 **[(5) TERM.—Each member of the**
11 **Board shall serve a term of six years, ex-**
12 **cept that—**

13 **[(A) a member appointed to a**
14 **term of office after the commence-**
15 **ment of such term may serve under**
16 **such appointment only for the re-**
17 **mainder of such term;**

18 **[(B) upon the expiration of the**
19 **term of office of a member, the mem-**
20 **ber shall continue to serve until the**
21 **member's successor has been ap-**
22 **pointed and qualified, except that no**
23 **member may serve under this sub-**
24 **paragraph—**

1 **[(i) for more than 60 days**
2 **when Congress is in session un-**
3 **less a nomination to fill the va-**
4 **cancy shall have been submitted**
5 **to the Senate; or**

6 **[(ii) after the adjournment**
7 **sine die of the session of the Sen-**
8 **ate in which such nomination is**
9 **submitted; and**

10 **[(C) the members initially ap-**
11 **pointed under this subsection shall**
12 **serve terms of two, three, four, five,**
13 **and six years, respectively, from the**
14 **effective date of this Act, with the**
15 **term of each such member to be des-**
16 **ignated by the President.**

17 **[(i) QUORUM AND MEETINGS.—After its ini-**
18 **tial meeting, the Board shall meet upon the**
19 **call of the chairman or a majority of its mem-**
20 **bers. Three members of the Board shall con-**
21 **stitute a quorum.**

22 **[(j) COMPENSATION AND TRAVEL EX-**
23 **PENSES.—**

24 **[(1) COMPENSATION.—**

1 **[(A) CHAIRMAN.—The chairman**
2 **shall be compensated at a rate equal**
3 **to the daily equivalent of the annual**
4 **rate of basic pay in effect for a posi-**
5 **tion at level III of the Executive**
6 **Schedule under section 5314 of title 5,**
7 **United States Code, for each day dur-**
8 **ing which the chairman is engaged in**
9 **the actual performance of the duties**
10 **of the Board.**

11 **[(B) MEMBERS.—Each member of**
12 **the Board shall be compensated at a**
13 **rate equal to the daily equivalent of**
14 **the annual rate of basic pay in effect**
15 **for a position at level IV of the Execu-**
16 **tive Schedule under section 5315 of**
17 **title 5, United States Code, for each**
18 **day during which that member is en-**
19 **gaged in the actual performance of**
20 **the duties of the Board.**

21 **[(2) TRAVEL EXPENSES.—Members of**
22 **the Board shall be allowed travel ex-**
23 **penses, including per diem in lieu of sub-**
24 **sistence, at rates authorized for persons**
25 **employed intermittently by the Govern-**

1 ment under section 5703(b) of title 5,
2 United States Code, while away from
3 their homes or regular places of business
4 in the performance of services for the
5 Board.

6 [(k) STAFF.—

7 [(1) APPOINTMENT AND COMPENSA-
8 TION.—The Chairman, in accordance with
9 rules agreed upon by the Board, shall ap-
10 point and fix the compensation of an ex-
11 ecutive director and such other per-
12 sonnel as may be necessary to enable the
13 Board to carry out its functions, without
14 regard to the provisions of title 5, United
15 States Code, governing appointments in
16 the competitive service, and without re-
17 gard to the provisions of chapter 51 and
18 subchapter III of chapter 53 of such title
19 relating to classification and General
20 Schedule pay rates, except that no rate of
21 pay fixed under this subsection may ex-
22 ceed the equivalent of that payable for a
23 position at level V of the Executive
24 Schedule under section 5316 of title 5,
25 United States Code.

1 **[(2) DETAILEES.—Any Federal em-**
2 **ployee may be detailed to the Board with-**
3 **out reimbursement from the Board, and**
4 **such detailee shall retain the rights, sta-**
5 **tus, and privileges of the detailee’s reg-**
6 **ular employment without interruption.**

7 **[(3) CONSULTANT SERVICES.—The**
8 **Board may procure the temporary or**
9 **intermittent services of experts and con-**
10 **sultants in accordance with section 3109**
11 **of title 5, United States Code, at rates**
12 **that do not exceed the daily rate paid a**
13 **person occupying a position at level IV of**
14 **the Executive Schedule under section**
15 **5315 of such title.**

16 **[(1) SECURITY CLEARANCES.—The appro-**
17 **priate Federal executive departments and**
18 **agencies shall cooperate with the Board to ex-**
19 **pediently provide the Board members and**
20 **staff with appropriate security clearances to**
21 **the extent possible under existing procedures**
22 **and requirements, except that no person shall**
23 **be provided with access to classified informa-**
24 **tion under this section without the appro-**
25 **priate security clearances.**

1 **[(m) TREATMENT AS AGENCY, NOT AS ADVI-**
2 **SORY COMMITTEE.—The Board—**

3 **[(1) is an agency (as defined in sec-**
4 **tion 551(1) of title 5, United States Code);**
5 **and**

6 **[(2) is not an advisory committee (as**
7 **defined in section 3(2) of the Federal Ad-**
8 **visory Committee Act (5 U.S.C. App.)).**

9 **[(n) AUTHORIZATION OF APPROPRIATIONS.—**
10 **There are authorized to be appropriated such**
11 **sums as may be necessary to carry out this**
12 **section.**

13 **[CHAPTER 2—MUTUAL AID AND**
14 **LITIGATION MANAGEMENT**

15 **[SEC. 5101. SHORT TITLE.**

16 **[This chapter may be cited as the “Mutual**
17 **Aid and Litigation Management Authoriza-**
18 **tion Act of 2004”.**

19 **[SEC. 5102. MUTUAL AID AUTHORIZED.**

20 **[(a) AUTHORIZATION TO ENTER INTO AGREE-**
21 **MENTS.—**

22 **[(1) IN GENERAL.—The authorized rep-**
23 **resentative of a State, locality, or the**
24 **Federal Government may enter into an**
25 **interstate mutual aid agreement or a mu-**

1 **tual aid agreement with the Federal Gov-**
2 **ernment on behalf of the State, locality,**
3 **or Federal Government under which, at**
4 **the request of any party to the agree-**
5 **ment, the other party to the agreement**
6 **may—**

7 **[(A) provide law enforcement,**
8 **fire, rescue, emergency health and**
9 **medical services, transportation, com-**
10 **munications, public works and engi-**
11 **neering, mass care, and resource sup-**
12 **port in an emergency or public serv-**
13 **ice event occurring in the jurisdiction**
14 **of the requesting party;**

15 **[(B) provide other services to pre-**
16 **pare for, mitigate, manage, respond**
17 **to, or recover from an emergency or**
18 **public service event occurring in the**
19 **jurisdiction of the requesting party;**
20 **and**

21 **[(C) participate in training events**
22 **occurring in the jurisdiction of the**
23 **requesting party.**

24 **[(b) LIABILITY AND ACTIONS AT LAW.—**

1 **[(1) LIABILITY.—A responding party or**
2 **its officers or employees shall be liable on**
3 **account of any act or omission occurring**
4 **while providing assistance or partici-**
5 **pating in a training event in the jurisdic-**
6 **tion of a requesting party under a mutual**
7 **aid agreement (including any act or omis-**
8 **sion arising from the maintenance or use**
9 **of any equipment, facilities, or supplies**
10 **in connection therewith), but only to the**
11 **extent permitted under and in accord-**
12 **ance with the laws and procedures of the**
13 **State of the responding party and subject**
14 **to this chapter.**

15 **[(2) JURISDICTION OF COURTS.—**

16 **[(A) IN GENERAL.—Subject to sub-**
17 **paragraph (B) and section 5103, any**
18 **action brought against a responding**
19 **party or its officers or employees on**
20 **account of an act or omission de-**
21 **scribed in subsection (b)(1) may be**
22 **brought only under the laws and pro-**
23 **cedures of the State of the respond-**
24 **ing party and only in the State courts**

1 or United States District Courts lo-
2 cated therein.

3 **[(B) UNITED STATES AS PARTY.—If**
4 **the United States is the party against**
5 **whom an action described in para-**
6 **graph (1) is brought, the action may**
7 **be brought only in a United States**
8 **District Court.**

9 **[(c) WORKERS' COMPENSATION AND DEATH**
10 **BENEFITS.—**

11 **[(1) PAYMENT OF BENEFITS.—A re-**
12 **sponding party shall provide for the pay-**
13 **ment of workers' compensation and**
14 **death benefits with respect to officers or**
15 **employees of the party who sustain inju-**
16 **ries or are killed while providing assist-**
17 **ance or participating in a training event**
18 **under a mutual aid agreement in the**
19 **same manner and on the same terms as if**
20 **the injury or death were sustained within**
21 **the jurisdiction of the responding party.**

22 **[(2) LIABILITY FOR BENEFITS.—No party**
23 **shall be liable under the law of any State**
24 **other than its own (or, in the case of the**
25 **Federal Government, under any law**

1 other than Federal law) for the payment
2 of workers' compensation and death ben-
3 efits with respect to injured officers or
4 employees of the party who sustain inju-
5 ries or are killed while providing assist-
6 ance or participating in a training event
7 under a mutual aid agreement.

8 **[(d) LICENSES AND PERMITS.—**Whenever
9 any person holds a license, certificate, or
10 other permit issued by any responding party
11 evidencing the meeting of qualifications for
12 professional, mechanical, or other skills, such
13 person will be deemed licensed, certified, or
14 permitted by the requesting party to provide
15 assistance involving such skill under a mu-
16 tual aid agreement.

17 **[(e) SCOPE.—**Except to the extent pro-
18 vided in this section, the rights and respon-
19 sibilities of the parties to a mutual aid agree-
20 ment shall be as described in the mutual aid
21 agreement.

22 **[(f) EFFECT ON OTHER AGREEMENTS.—**Noth-
23 ing in this section precludes any party from
24 entering into supplementary mutual aid
25 agreements with fewer than all the parties, or

1 with another, or affects any other agreements
2 already in force among any parties to such an
3 agreement, including the Emergency Manage-
4 ment Assistance Compact (EMAC) under Pub-
5 lic Law 104-321.

6 [(g) FEDERAL GOVERNMENT.—Nothing in
7 this section may be construed to limit any
8 other expressed or implied authority of any
9 entity of the Federal Government to enter
10 into mutual aid agreements.

11 [(h) CONSISTENCY WITH STATE LAW.—A
12 party may enter into a mutual aid agreement
13 under this chapter only insofar as the agree-
14 ment is in accord with State law.

15 [SEC. 5103. LITIGATION MANAGEMENT AGREEMENTS.

16 [(a) AUTHORIZATION TO ENTER INTO LITIGA-
17 TION MANAGEMENT AGREEMENTS.—The author-
18 ized representative of a State or locality may
19 enter into a litigation management agreement
20 on behalf of the State or locality. Such litiga-
21 tion management agreements may provide
22 that all claims against such Emergency Re-
23 sponse Providers arising out of, relating to, or
24 resulting from an act of terrorism when Emer-
25 gency Response Providers from more than 1

1 State have acted in defense against, in re-
2 sponse to, or recovery from such act shall be
3 governed by the following provisions.

4 [(b) FEDERAL CAUSE OF ACTION.—

5 [(1) IN GENERAL.—There shall exist a
6 Federal cause of action for claims against
7 Emergency Response Providers arising
8 out of, relating to, or resulting from an
9 act of terrorism when Emergency Re-
10 sponse Providers from more than 1 State
11 have acted in defense against, in re-
12 sponse to, or recovery from such act. As
13 determined by the parties to a litigation
14 management agreement, the substantive
15 law for decision in any such action shall
16 be—

17 [(A) derived from the law, includ-
18 ing choice of law principles, of the
19 State in which such acts of terrorism
20 occurred, unless such law is incon-
21 sistent with or preempted by Federal
22 law; or

23 [(B) derived from the choice of
24 law principles agreed to by the par-
25 ties to a litigation management agree-

1 ment as described in the litigation
2 management agreement, unless such
3 principles are inconsistent with or
4 preempted by Federal law.

5 **[(2) JURISDICTION.—**Such appropriate
6 district court of the United States shall
7 have original and exclusive jurisdiction
8 over all actions for any claim against
9 Emergency Response Providers for loss
10 of property, personal injury, or death
11 arising out of, relating to, or resulting
12 from an act of terrorism when Emer-
13 gency Response Providers from more
14 than 1 State have acted in defense
15 against, in response to, or recovery from
16 an act of terrorism.

17 **[(3) SPECIAL RULES.—**In an action
18 brought for damages that is governed by
19 a litigation management agreement, the
20 following provisions apply:

21 **[(A) PUNITIVE DAMAGES.—**No puni-
22 tive damages intended to punish or
23 deter, exemplary damages, or other
24 damages not intended to compensate
25 a plaintiff for actual losses may be

1 awarded, nor shall any party be liable
2 for interest prior to the judgment.

3 **[(B) COLLATERAL SOURCES.—Any**
4 **recovery by a plaintiff in an action**
5 **governed by a litigation management**
6 **agreement shall be reduced by the**
7 **amount of collateral source com-**
8 **pensation, if any, that the plaintiff**
9 **has received or is entitled to receive**
10 **as a result of such acts of terrorism.**

11 **[(4) EXCLUSIONS.—Nothing in this sec-**
12 **tion shall in any way limit the ability of**
13 **any person to seek any form of recovery**
14 **from any person, government, or other**
15 **entity that—**

16 **[(A) attempts to commit, know-**
17 **ingly participates in, aids and abets,**
18 **or commits any act of terrorism, or**
19 **any criminal act related to or result-**
20 **ing from such act of terrorism; or**

21 **[(B) participates in a conspiracy**
22 **to commit any such act of terrorism**
23 **or any such criminal act.**

1 [SEC. 5104. ADDITIONAL PROVISIONS.

2 [(a) NO ABROGATION OF OTHER IMMUNI-
3 TIES.—Nothing in this chapter shall abrogate
4 any other immunities from liability that any
5 party may have under any other State or Fed-
6 eral law.

7 [(b) EXCEPTION FOR CERTAIN FEDERAL LAW
8 ENFORCEMENT ACTIVITIES.—A mutual aid
9 agreement or a litigation management agree-
10 ment may not apply to law enforcement secu-
11 rity operations at special events of national
12 significance under section 3056(e) of title 18,
13 United States Code, or to other law enforce-
14 ment functions of the United States Secret
15 Service.

16 [(c) SECRET SERVICE.—Section 3056 of title
17 18, United States Code, is amended by adding
18 at the end the following new subsection:

19 [“(g) The Secret Service shall be main-
20 tained as a distinct entity within the Depart-
21 ment of Homeland Security and shall not be
22 merged with any other department function.
23 All personnel and operational elements of the
24 United States Secret Service shall report to
25 the Director of the Secret Service, who shall
26 report directly to the Secretary of Homeland

1 Security without being required to report
2 through any other official of the Depart-
3 ment.”.

4 [SEC. 5105. DEFINITIONS.

5 [For purposes of this chapter, the fol-
6 lowing definitions apply:

7 [(1) AUTHORIZED REPRESENTATIVE.—
8 The term “authorized representative”
9 means—

10 [(A) in the case of the Federal
11 Government, any individual des-
12 ignated by the President with respect
13 to the executive branch, the Chief
14 Justice of the United States with re-
15 spect to the judicial branch, or the
16 President pro Tempore of the Senate
17 and Speaker of the House of Rep-
18 resentatives with respect to the Con-
19 gress, or their designees, to enter into
20 a mutual aid agreement;

21 [(B) in the case of a locality, the
22 official designated by law to declare
23 an emergency in and for the locality,
24 or the official’s designee;

1 **[(C) in the case of a State, the**
2 **Governor or the Governor’s designee.**

3 **[(2) EMERGENCY.—The term “emer-**
4 **gency” means a major disaster or emer-**
5 **gency declared by the President, or a**
6 **State of Emergency declared by an au-**
7 **thorized representative of a State or lo-**
8 **cality, in response to which assistance**
9 **may be provided under a mutual aid**
10 **agreement.**

11 **[(3) EMERGENCY RESPONSE PROVIDER.—**
12 **The term “Emergency Response Pro-**
13 **vider” means State or local emergency**
14 **public safety, law enforcement, emer-**
15 **gency response, emergency medical (in-**
16 **cluding hospital emergency facilities),**
17 **and related personnel, agencies, and au-**
18 **thorities that are a party to a litigation**
19 **management agreement.**

20 **[(4) EMPLOYEE.—The term “employee”**
21 **means, with respect to a party to a mu-**
22 **tual aid agreement, the employees of the**
23 **party, including its agents or authorized**
24 **volunteers, who are committed to provide**
25 **assistance under the agreement.**

1 **[(5) LITIGATION MANAGEMENT AGREEMENT.—**The term “litigation management
2 **MENT.—**The term “litigation management
3 **agreement”** means an agreement entered
4 **into pursuant to the authority granted**
5 **under section 5103.**

6 **[(6) LOCALITY.—**The term “locality”
7 **means a county, city, or town.**

8 **[(7) MUTUAL AID AGREEMENT.—**The
9 **term “mutual aid agreement”** means an
10 **agreement entered into pursuant to the**
11 **authority granted under section 5102.**

12 **[(8) PUBLIC SERVICE EVENT.—**The term
13 **“public service event”** means any
14 **undeclared emergency, incident, or situa-**
15 **tion in preparation for or response to**
16 **which assistance may be provided under**
17 **a mutual aid agreement.**

18 **[(9) REQUESTING PARTY.—**The term
19 **“requesting party”** means, with respect to
20 **a mutual aid agreement, the party in**
21 **whose jurisdiction assistance is provided,**
22 **or a training event is held, under the**
23 **agreement.**

24 **[(10) RESPONDING PARTY.—**The term
25 **“responding party”** means, with respect

1 to a mutual aid agreement, the party pro-
2 viding assistance, or participating in a
3 training event, under the agreement, but
4 does not include the requesting party.

5 [(11) STATE.—The term “State” in-
6 cludes each of the several States of the
7 United States, the District of Columbia,
8 the Commonwealth of Puerto Rico, the
9 Virgin Islands, Guam, American Samoa,
10 and the Commonwealth of the Northern
11 Mariana Islands, and any other territory
12 or possession of the United States, and
13 any political subdivision of any such
14 place.

15 [(12) TRAINING EVENT.—The term
16 “training event” means an emergency
17 and public service event-related exercise,
18 test, or other activity using equipment
19 and personnel to prepare for or simulate
20 performance of any aspect of the giving
21 or receiving of assistance during emer-
22 gencies or public service events, but does
23 not include an actual emergency or pub-
24 lic service event.

1 **[CHAPTER 3—MISCELLANEOUS MATTERS**

2 **[SEC. 5131. ENHANCEMENT OF PUBLIC SAFETY COMMU-**
3 **NICATIONS INTEROPERABILITY.**

4 **[(a) COORDINATION OF PUBLIC SAFETY**
5 **INTEROPERABLE COMMUNICATIONS PROGRAMS.—**

6 **[(1) PROGRAM.—The Secretary of**
7 **Homeland Security, in consultation with**
8 **the Secretary of Commerce and the**
9 **Chairman of the Federal Communica-**
10 **tions Commission, shall establish a pro-**
11 **gram to enhance public safety interoper-**
12 **able communications at all levels of gov-**
13 **ernment. Such program shall—**

14 **[(A) establish a comprehensive**
15 **national approach to achieving public**
16 **safety interoperable communications;**

17 **[(B) coordinate with other Fed-**
18 **eral agencies in carrying out sub-**
19 **paragraph (A);**

20 **[(C) develop, in consultation with**
21 **other appropriate Federal agencies**
22 **and State and local authorities, ap-**
23 **propriate minimum capabilities for**
24 **communications interoperability for**

1 **Federal, State, and local public safety**
2 **agencies;**

3 **[(D) accelerate, in consultation**
4 **with other Federal agencies, includ-**
5 **ing the National Institute of Stand-**
6 **ards and Technology, the private sec-**
7 **tor, and nationally recognized stand-**
8 **ards organizations as appropriate,**
9 **the development of national vol-**
10 **untary consensus standards for pub-**
11 **lic safety interoperable communica-**
12 **tions;**

13 **[(E) encourage the development**
14 **and implementation of flexible and**
15 **open architectures, with appropriate**
16 **levels of security, for short-term and**
17 **long-term solutions to public safety**
18 **communications interoperability;**

19 **[(F) assist other Federal agencies**
20 **in identifying priorities for research,**
21 **development, and testing and evalua-**
22 **tion with regard to public safety**
23 **interoperable communications;**

24 **[(G) identify priorities within the**
25 **Department of Homeland Security for**

1 **research, development, and testing**
2 **and evaluation with regard to public**
3 **safety interoperable communications;**

4 **[(H) establish coordinated guid-**
5 **ance for Federal grant programs for**
6 **public safety interoperable commu-**
7 **nications;**

8 **[(I) provide technical assistance**
9 **to State and local public safety agen-**
10 **cies regarding planning, acquisition**
11 **strategies, interoperability architec-**
12 **tures, training, and other functions**
13 **necessary to achieve public safety**
14 **communications interoperability;**

15 **[(J) develop and disseminate best**
16 **practices to improve public safety**
17 **communications interoperability; and**

18 **[(K) develop appropriate per-**
19 **formance measures and milestones to**
20 **systematically measure the Nation's**
21 **progress towards achieving public**
22 **safety communications interoper-**
23 **ability, including the development of**
24 **national voluntary consensus stand-**
25 **ards.**

1 **[(2) OFFICE FOR INTEROPERABILITY AND**
2 **COMPATIBILITY.—**

3 **[(A) ESTABLISHMENT OF OFFICE.—**

4 **The Secretary may establish an Office**
5 **for Interoperability and Compat-**
6 **ibility to carry out this subsection.**

7 **[(B) FUNCTIONS.—If the Secretary**
8 **establishes such office, the Secretary**
9 **shall, through such office—**

10 **[(i) carry out Department of**
11 **Homeland Security responsibil-**
12 **ities and authorities relating to**
13 **the SAFECOM Program; and**

14 **[(ii) carry out subsection (c)**
15 **(relating to rapid interoperable**
16 **communications capabilities for**
17 **high risk jurisdictions).**

18 **[(3) APPLICABILITY OF FEDERAL ADVI-**
19 **SORY COMMITTEE ACT.—The Federal Advi-**
20 **sory Committee Act (5 U.S.C. App.) shall**
21 **not apply to advisory groups established**
22 **and maintained by the Secretary for pur-**
23 **poses of carrying out this subsection.**

24 **[(b) REPORT.—Not later than 120 days**
25 **after the date of the enactment of this Act, the**

1 Secretary shall report to the Congress on De-
2 partment of Homeland Security plans for ac-
3 celerating the development of national vol-
4 untary consensus standards for public safety
5 interoperable communications, a schedule of
6 milestones for such development, and
7 achievements of such development.

8 [(c) RAPID INTEROPERABLE COMMUNICA-
9 TIONS CAPABILITIES FOR HIGH RISK JURISDIC-
10 TIONS.—The Secretary, in consultation with
11 other relevant Federal, State, and local gov-
12 ernment agencies, shall provide technical,
13 training, and other assistance as appropriate
14 to support the rapid establishment of con-
15 sistent, secure, and effective interoperable
16 communications capabilities for emergency
17 response providers in jurisdictions deter-
18 mined by the Secretary to be at consistently
19 high levels of risk of terrorist attack.

20 [(d) DEFINITIONS.—In this section:

21 [(1) INTEROPERABLE COMMUNICA-
22 TIONS.—The term “interoperable commu-
23 nications” means the ability of emer-
24 gency response providers and relevant
25 Federal, State, and local government

1 **agencies to communicate with each other**
2 **as necessary, through a dedicated public**
3 **safety network utilizing information**
4 **technology systems and radio commu-**
5 **nications systems, and to exchange voice,**
6 **data, or video with one another on de-**
7 **mand, in real time, as necessary.**

8 **[(2) EMERGENCY RESPONSE PRO-**
9 **VIDERS.—The term “emergency response**
10 **providers” has the meaning that term has**
11 **under section 2 of the Homeland Security**
12 **Act of 2002 (6 U.S.C. 101)**

13 **[(e) CLARIFICATION OF RESPONSIBILITY FOR**
14 **INTEROPERABLE COMMUNICATIONS.—**

15 **[(1) UNDER SECRETARY FOR EMERGENCY**
16 **PREPAREDNESS AND RESPONSE.—Section**
17 **502(7) of the Homeland Security Act of**
18 **2002 (6 U.S.C. 312(7)) is amended—**

19 **[(A) by striking “developing com-**
20 **prehensive programs for developing**
21 **interoperative communications tech-**
22 **nology, and”; and**

23 **[(B) by striking “such” and insert-**
24 **ing “interoperable communications”.**

1 **[(2) OFFICE FOR DOMESTIC PREPARED-**
2 **NESS.—Section 430(c) of such Act (6 U.S.C.**
3 **238(c)) is amended—**

4 **[(A) in paragraph (7) by striking**
5 **“and” after the semicolon;**

6 **[(B) in paragraph (8) by striking**
7 **the period and inserting “; and”; and**

8 **[(C) by adding at the end the fol-**
9 **lowing:**

10 **[“(9) helping to ensure the acquisi-**
11 **tion of interoperable communication**
12 **technology by State and local govern-**
13 **ments and emergency response pro-**
14 **viders.”.**

15 **[SEC. 5132. SENSE OF CONGRESS REGARDING THE INCI-**
16 **DENT COMMAND SYSTEM.**

17 **[(a) FINDINGS.—The Congress finds that—**

18 **[(1) in Homeland Security Presi-**
19 **dential Directive-5, the President di-**
20 **rected the Secretary of Homeland Secu-**
21 **rity to develop an incident command sys-**
22 **tem to be known as the National Incident**
23 **Management System (NIMS), and di-**
24 **rected all Federal agencies to make the**
25 **adoption of NIMS a condition for the re-**

1 ceipt of Federal emergency preparedness
2 assistance by States, territories, tribes,
3 and local governments beginning in fiscal
4 year 2005;

5 [(2) in March 2004, the Secretary of
6 Homeland Security established NIMS,
7 which provides a unified structural
8 framework for Federal, State, territorial,
9 tribal, and local governments to ensure
10 coordination of command, operations,
11 planning, logistics, finance, and adminis-
12 tration during emergencies involving
13 multiple jurisdictions or agencies; and

14 [(3) the National Commission on Ter-
15 rorist Attacks Upon the United States
16 strongly supports the adoption of NIMS
17 by emergency response agencies nation-
18 wide, and the decision by the President
19 to condition Federal emergency pre-
20 paredness assistance upon the adoption
21 of NIMS.

22 [(b) SENSE OF CONGRESS.—It is the sense of
23 the Congress that all levels of government
24 should adopt NIMS, and that the regular use
25 of and training in NIMS by States, territories,

1 **tribes, and local governments should be a con-**
2 **dition for receiving Federal preparedness as-**
3 **sistance.**

4 **[SEC. 5133. SENSE OF CONGRESS REGARDING UNITED**
5 **STATES NORTHERN COMMAND PLANS AND**
6 **STRATEGIES.**

7 **[It is the sense of Congress that the Sec-**
8 **retary of Defense should regularly assess the**
9 **adequacy of United States Northern Com-**
10 **mand's plans and strategies with a view to en-**
11 **suring that the United States Northern Com-**
12 **mand is prepared to respond effectively to all**
13 **military and paramilitary threats within the**
14 **United States.]**

Union Calendar No. 453

108TH CONGRESS
2^D SESSION

H. R. 10

[Report No. 108-724, Parts I, II, III, IV, and V]

A BILL

To provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes.

OCTOBER 4, 2004

Reported from the Permanent Select Committee on Intelligence with an amendment; Reported from the Committee on Armed Services with amendments; Reported from the Committee on Financial Services with an amendment; Referral to the Committees on Education and the Workforce, Energy and Commerce, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security extended for a period ending not later than October 5, 2004

OCTOBER 5, 2004

Reported from the Committee on Government Reform with an amendment; Reported from the Committee on the Judiciary with an amendment; Committees on Education and the Workforce, Energy and Commerce, International Relations, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed